

AMENDED IN ASSEMBLY APRIL 29, 2004

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY MAY 29, 2003

SENATE BILL

No. 626

**Introduced by Committee on Public Employment and
Retirement (Senators Soto (Chair), Karnette, and Scott)**

February 21, 2003

An act to amend Sections 7005, 7008, 89529.03, and 89621 of the Education Code, to amend Sections 3517.6, 3517.61, 3572.5, 9322, 9359.83, 14876, 16391.1, 19849.15, 19871, 21450, 21506, 21551, 21635, 21635.5, ~~21661~~, 26296.22, 26299.036, 73642, 73952, 74342, 74742, and 75521 of, to add Part 5 (commencing with Section 22750) to Division 5 of Title 2 of, to repeal Sections 21690, 21691, 21692 of, to repeal Part 5 (commencing with Section 22751) of Division 5 of Title 2 of, and to repeal and add Part 6 (commencing with Section 22950) of Division 5 of Title 2 of, the Government Code, to amend Section 124964 of the Health and Safety Code, to amend Section 4856 of the Labor Code, to amend Section 13600 of the Probate Code, to amend Section 35137 of the Public Resources Code, and to amend Sections 130109, 131269, and 140109 of the Public Utilities Code, relating to public employee benefits, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as amended, Committee on Public Employment and Retirement. Benefits: Public Employees' Medical and Hospital Care Act.

~~(1) The~~



The Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefit plans and major medical plans for employees and annuitants, as defined, and approve other specified plans.

This bill would revise and recast those provisions and related definitions, including, but not limited to, *the terms* "annuitant," "carrier," "employee," "employer," and "family member." The bill would conform various statutory provisions of law to these revisions.

This bill would also make other statutory *and conforming* changes with respect to duties of the Board of Administration and the State Employees' Dental Care Act, ~~and with respect to the Rural Health Care Equity Program. The bill would declare that it is to take effect immediately as an urgency statute.~~

~~(2) The Public Employees' Medical and Hospital Care Act specifies that a Member of the Legislature, an elective constitutional officer of the state, or an inactive member of the Legislators' Retirement System, as specified, who has at least 8 years of credited service and meets other specified criteria, is eligible to enroll in a health benefit plan.~~

~~This bill would instead require 6 years of credited service to qualify for this eligibility.~~

~~(3) The Public Employees' Medical and Hospital Care Act provides that a contracting agency may establish a lesser monthly employer contribution for annuitants, if that contribution is annually increased by at least 5% of the monthly employer contribution, as specified.~~

~~This bill would delete the annual 5% increase requirement, and would instead permit the lesser monthly employer contribution to be based on a specified formula.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7005 of the Education Code is amended
- 2 to read:
- 3 7005. This article does not apply to persons receiving benefits
- 4 pursuant to the Public Employees' Medical and Hospital Care Act
- 5 (Chapter 1 (commencing with Section 22750) of Part 5 of Division
- 6 5 of Title 2 of the Government Code) and to the employers on
- 7 which their benefits are based.



For purposes of this section, “employer” means a county superintendent of schools, a school district, or a community college district irrespective of whether employees may be represented by different bargaining groups. Notwithstanding any other provision of this part, this article does not apply to employers for those groups of employees for whom coverage under the Public Employees’ Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code) is provided by contract.

SEC. 2. Section 7008 of the Education Code is amended to read:

7008. (a) Notwithstanding any other provision of law, a member of the Defined Benefit Program of the State Teachers’ Retirement Plan who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the provisions of the Teachers’ Retirement Law (Part 13 (commencing with Section 22000)), may, upon qualifying for a disability under Section 24001 and while receiving an allowance under Section 24002, continue in the district’s health care plan and dental care plan by paying all of the employer’s and employee’s premiums and all of the related administrative costs of the employer.

(b) Notwithstanding any other provision of law, a school member as defined in Section 20370 of the Government Code, or a local police officer as defined in Section 20430 of the Government Code, who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the Public Employees’ Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code), may, upon qualifying for a disability and while receiving an allowance under Chapter 12 (commencing with Section 21060) of Part 3 of Division 5 of Title 2 of the Government Code, continue in the employer’s health care plan and dental care plan by paying all of the employer’s and employee’s premiums and all of the related administrative costs of the employer.

(c) Subdivisions (a) and (b) do not apply to any member who is employed by a school district that contracts with the Public

1 Employees' Retirement System for health care coverage under the
2 Public Employees' Medical and Health Care Act, (Part 5
3 (commencing with Section 22750) of Division 5 of Title 2 of the
4 Government Code).

5 SEC. 3. Section 89529.03 of the Education Code is amended
6 to read:

7 89529.03. If an employee is temporarily disabled by illness
8 or injury arising out of and in the course of state employment, he
9 or she shall become entitled, regardless of his or her period of
10 service, to receive industrial disability leave and payments, in lieu
11 of workers' compensation temporary disability payments and
12 payment under Section 89527, for a period not exceeding 52
13 weeks within two years from the first day of disability. The
14 payments shall be in the amount of the employee's full pay less
15 withholding based on his or her exemptions in effect on the date
16 of his or her disability for federal income taxes, state income taxes,
17 and social security taxes not to exceed 22 working days of
18 disability subject to Section 89529.08. Thereafter, the payment
19 shall be two-thirds of full pay. Payments shall be additionally
20 adjusted to offset disability benefits, excluding those disability
21 benefits payable from the State Teachers' Retirement System, the
22 employee may receive from other employer-subsidized programs,
23 except that no adjustment will be made for benefits to which the
24 employee's family is entitled up to a maximum of three-quarters
25 of full pay. Contributions to the Public Employees' Retirement
26 System or the State Teachers' Retirement System shall be
27 deducted in the amount based on full pay. Discretionary
28 deductions of the employee including those for coverage under a
29 state health benefits plan in which the employee is enrolled shall
30 continue to be deducted unless canceled by the employee. State
31 employer contributions to the Public Employees' Retirement
32 System and state employer normal retirement contributions to the
33 State Teachers' Retirement System shall be made on the basis of
34 full pay and state contributions pursuant to Sections 22871 and
35 22885 of the Government Code because of the employee's
36 enrollment in a health benefits plan shall continue.

37 SEC. 4. Section 89621 of the Education Code is amended to
38 read:

39 89621. Any eligible employee electing to participate in the
40 optional retirement program shall be ineligible for membership in



the Public Employees' Retirement System so long as he or she is employed in any eligible position by the California State University. In the event an optional retirement program participant assumes a position in public service for which the optional retirement program is not available, the employee shall, at that time, cease participation in the program and shall begin participation in the Public Employees' Retirement System.

Employees who elect to participate in the optional retirement program shall remain eligible to participate in the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code) as if they were members of the Public Employees' Retirement System.

SEC. 5. Section 3517.6 of the Government Code is amended to read:

3517.6. (a) (1) In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action.

(2) Notwithstanding paragraph (1), this paragraph shall apply only to state employees in State Bargaining Unit 5. In any case where the provisions of Section 70031 of the Education Code, or subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5,

1 19100, 19143, 19261, 19576.1, 19818.16, 19819.1, 19820, 19822,
2 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832,
3 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840,
4 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848,
5 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4,
6 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1,
7 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863,
8 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872,
9 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879,
10 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887,
11 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2,
12 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1,
13 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3,
14 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2,
15 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22870,
16 22871, or 22890 are in conflict with the provisions of a
17 memorandum of understanding, the memorandum of
18 understanding shall be controlling without further legislative
19 action.

20 (3) Notwithstanding paragraph (1), this paragraph shall apply
21 only to state employees in State Bargaining Unit 8. In any case
22 where the provisions of Section 70031 of the Education Code, or
23 subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5,
24 19100, 19143, 19261, 19574, 19574.1, 19574.2, 19575, 19576.1,
25 19578, 19582, 19582.1, 19175.1, 19818.16, 19819.1, 19820,
26 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831,
27 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839,
28 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847,
29 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3,
30 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856,
31 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862,
32 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871,
33 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1,
34 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884,
35 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1,
36 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992,
37 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2,
38 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1,
39 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605,
40 22870, 22871, or 22890 are in conflict with the provisions of a



1 memorandum of understanding, the memorandum of
2 understanding shall be controlling without further legislative
3 action.

4 (4) Notwithstanding paragraph (1), this paragraph shall apply
5 only to state employees in State Bargaining Unit 12 or 13. In any
6 case where the provisions of Section 70031 of the Education Code,
7 or subdivision (i) of Section 3513, or Section 14876, 18670,
8 18714, 19080.5, 19100, 19143, 19261, 19574, 19574.1, 19574.2,
9 19575, 19578, 19582, 19583, 19702, 19818.16, 19819.1, 19820,
10 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831,
11 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839,
12 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847,
13 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3,
14 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856,
15 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862,
16 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871,
17 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1,
18 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884,
19 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1,
20 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992,
21 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2,
22 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1,
23 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605,
24 22870, 22871, or 22890 are in conflict with the provisions of a
25 memorandum of understanding, the memorandum of
26 understanding shall be controlling without further legislative
27 action.

28 (b) In any case where the provisions of Section 19997.2,
29 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12,
30 19997.13, or 19997.14 are in conflict with the provisions of a
31 memorandum of understanding, the terms of the memorandum of
32 understanding shall be controlling unless the State Personnel
33 Board finds those terms to be inconsistent with merit employment
34 principles as provided for by Article VII of the California
35 Constitution. Where this finding is made, the provisions of the
36 Government Code shall prevail until those affected sections of the
37 memorandum of understanding are renegotiated to resolve the
38 inconsistency. If any provision of the memorandum of
39 understanding requires the expenditure of funds, those provisions
40 of the memorandum of understanding may not become effective

1 unless approved by the Legislature in the annual Budget Act. If any
2 provision of the memorandum of understanding requires
3 legislative action to permit its implementation by amendment of
4 any section not cited above, those provisions of the memorandum
5 of understanding may not become effective unless approved by the
6 Legislature.

7 SEC. 6. Section 3517.61 of the Government Code is amended
8 to read:

9 3517.61. Notwithstanding Section 3517.6, for state
10 employees in State Bargaining Unit 6, in any case where the
11 provisions of Section 70031 of the Education Code, subdivision
12 (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100,
13 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826,
14 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834,
15 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842,
16 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1,
17 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6,
18 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859,
19 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866,
20 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875,
21 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881,
22 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888,
23 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5,
24 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4,
25 19993, 19994.1, 19994.2, 19994.3, 19994.4 19995, 19995.1,
26 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796,
27 21600, 21602, 21604, 21605, 22870, 22871, or 22890 are in
28 conflict with the provisions of a memorandum of understanding,
29 the memorandum of understanding shall be controlling without
30 further legislative action. In any case where the provisions of
31 Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10,
32 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with
33 the provisions of a memorandum of understanding, the terms of
34 the memorandum of understanding shall be controlling unless the
35 State Personnel Board finds those terms to be inconsistent with
36 merit employment principles as provided for by Article VII of the
37 California Constitution. Where this finding is made, the provisions
38 of the Government Code shall prevail until those affected sections
39 of the memorandum of understanding are renegotiated to resolve
40 the inconsistency. If any provision of the memorandum of

1 understanding requires the expenditure of funds, those provisions
2 of the memorandum of understanding may not become effective
3 unless approved by the Legislature in the annual Budget Act. If any
4 provision of the memorandum of understanding requires
5 legislative action to permit its implementation by amendment of
6 any section not cited above, those provisions of the memorandum
7 of understanding may not become effective unless approved by the
8 Legislature.

9 SEC. 7. Section 3572.5 of the Government Code is amended
10 to read:

11 3572.5. (a) Except as provided in subdivision (b), in the case
12 where the following provisions of law are in conflict with a
13 memorandum of understanding, the memorandum of
14 understanding shall be controlling.

15 (1) Part 13 (commencing with Section 22000) of, and Sections
16 66609, 89007, 89039, 89500, 89501, 89502, 89503, 89504,
17 89505, 89505.5, 89506, 89507, 89508, 89510, 89512, 89513,
18 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89523,
19 89524, 89527, 89531, 89532, 89533, 89534, 89537, 89541,
20 89542, 89543, 89544, 89545, 89546, 89550, 89551, 89552,
21 89553, 89554, 89555, 89556, 89700, and 89701 of, the Education
22 Code.

23 (2) Sections 825, 825.2, 825.6, 3569.5, 6700, 11020, and
24 11021, Chapter 2 (commencing with Section 18150) of Part 1 of
25 Division 5 of Title 2, Sections 18200, 19841, 19848, 19850.6, and
26 19864, Article 4 (commencing with Section 19869) and Article 5
27 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of
28 Division 5 of Title 2, and Section 22871.

29 (3) Sections 395, 395.01, 395.05, 395.1, and 395.3 of the
30 Military and Veterans Code.

31 (b) (1) Notwithstanding the inclusion in Section 89542.5 of
32 the Education Code, except with respect to paragraph (5) of
33 subdivision (a) of that section, of a provision providing that, if the
34 statute is in conflict with a memorandum of understanding reached
35 pursuant to this chapter, the memorandum of understanding shall
36 be controlling without further legislative action, unless the
37 memorandum of understanding requires the expenditure of funds,
38 that section, except for paragraph (5) of subdivision (a) of that
39 section, provides a minimum level of benefits or rights, and is
40 superseded by a memorandum of understanding only if the

1 relevant terms of the memorandum of understanding provide more
2 than the minimum level of benefits or rights set forth in that
3 section, except for paragraph (5) of subdivision (a) of that section.

4 (2) This subdivision only applies to a memorandum of
5 understanding entered into on or after January 1, 2002.

6 SEC. 8. Section 9322 of the Government Code is amended to
7 read:

8 9322. (a) Notwithstanding Part 6 (commencing with Section
9 22950) of Division 5, or any other law, the Legislature shall
10 provide dental care plan coverage, pursuant to this section, for a
11 person who is (1) a former Member of the Assembly or Senate or
12 former legislative employee and who meets the conditions
13 imposed by subdivision (a) of Section 22815, (2) a former Member
14 of the Assembly or Senate or former legislative employee as
15 defined by subdivision (f) or (g) of Section 22760, or (3) a former
16 Member of the Assembly or Senate who meets the conditions
17 imposed by subparagraph (A) or (B) of paragraph (1) of
18 subdivision (a) of Section 22815.

19 (b) The Senate Committee on Rules shall administer the dental
20 care plan for former Senators and former Senate employees. The
21 Assembly Committee on Rules shall administer the dental care
22 plan for former Assembly Members and former Assembly
23 employees. Each rules committee shall be paid by those persons
24 the contributions specified by subdivision (b) of Section 22815,
25 including the additional 2 percent of the contribution payments
26 required to be paid to cover the cost of administration. If the Senate
27 Committee on Rules or the Assembly Committee on Rules does
28 not receive the required contribution and the additional 2 percent
29 of the contribution payment on the first day of a month or within
30 20 days thereafter, continued coverage shall be terminated
31 effective the first day of that month and may not be reinstated by
32 subsequent receipt of the contribution and payment.

33 (c) If a person described in subdivision (a) retires, he or she
34 shall be enrolled in the dental care plan provided for retirees in the
35 retirement plan in which he or she is a member.

36 (d) There is no duty to locate or notify any person who may be
37 eligible to enroll pursuant to this section.

38 SEC. 9. Section 9359.83 of the Government Code is amended
39 to read:

1 9359.83. Retired members of the system, and beneficiaries,
 2 who are entitled to receive allowances under the provisions of this
 3 chapter, may authorize deductions to be made from their
 4 retirement allowance payments, in accordance with regulations
 5 established by the board, for the payment of group insurance
 6 premiums and for dues or charges of a nonprofit membership
 7 corporation for the purpose of defraying the cost of medical
 8 services or hospital care, or both, under any plan approved by the
 9 Director of Finance. Those persons may also authorize deductions
 10 to be made from their retirement allowance payments, in
 11 accordance with regulations established by the board, for the
 12 payment of contributions for any health benefit plan coverage for
 13 which they may be eligible under the provisions of Chapter 1
 14 (commencing with Section 22750) of Part 5 of Division 5 of Title
 15 2 of this code.

16 SEC. 10. Section 14876 of the Government Code is amended
 17 to read:

18 14876. (a) Pressmen, typographers, linotypers, compositors,
 19 bookbinders, lithographers, engravers, apprentices and assistants
 20 and all other employees of the Office of State Printing employed
 21 in allied work shall be paid on an hourly wage basis. The basic
 22 wage of those employees shall be the prevailing hourly wage paid
 23 to persons identified by the Department of Personnel
 24 Administration to be in similar and comparable employment by
 25 private printers in the major metropolitan areas in California. The
 26 Department of Personnel Administration shall accept and give
 27 validity to certified copies of agreed upon contracts submitted by
 28 either the employer, the employer group, or the employee
 29 organization.

30 The Department of Personnel Administration shall survey only
 31 major employers where there are agreed upon contracts. If any
 32 agreed upon contract contains any provision or provisions that do
 33 not reflect the actual practice of the employer, the Department of
 34 Personnel Administration shall disregard the provision or
 35 provisions.

36 If the Department of Personnel Administration finds that salary
 37 relationships between surveyed classes do not accurately reflect
 38 relationships in duties and responsibilities of employees of the
 39 Office of State Printing, the department shall adjust those wage
 40 rates on an equitable basis notwithstanding the survey findings.

1 As used in this section, prevailing wages and prevailing benefits
2 means wages and benefits arrived at through negotiation between
3 an employer or employer organization and an employee
4 organization that is the bona fide representative of the employer's
5 employees and certified as the bona fide representative by the
6 Director of Industrial Relations. In order to be so certified, the
7 employee organization shall be free from employer influence and
8 domination.

9 (b) In addition to these wages, and the rights and privileges
10 afforded state employees under the provisions of the State Civil
11 Service Act, and other statutes, there shall be paid to each
12 employee of the Office of State Printing, either directly or to a
13 health and welfare fund on his or her behalf, an amount equal to
14 the prevailing individual contributions paid to health and welfare
15 plans for employees in similar and comparable employment by
16 private printers in the major metropolitan areas. Where those
17 contracts do not disclose the dollar value of health and welfare
18 benefits, the state shall provide the same or substantially the same
19 level of benefits as provided for in the agreed upon contracts. Any
20 adjustments made pursuant to subdivisions (a) and (b) of this
21 section shall be effective as of March 1, 1977, and each March 1,
22 thereafter.

23 (c) As an alternative to subdivision (b), a person first employed
24 to any position described in subdivision (a) after October 1, 1977,
25 may elect to become an "employee" as defined in paragraph (5)
26 of subdivision (a) of Section 22772 within 90 days of commencing
27 that employment.

28 Any person who is a member of a health and welfare plan
29 described in subdivision (b) who loses eligibility for participation
30 in the plan, or if the plan of which the person is a member ceases
31 to exist, that person may elect to become an "employee," as
32 defined in paragraph (5) of subdivision (a) of Section 22772,
33 within 90 days of the date that eligibility is lost or the plan ceases
34 to exist.

35 (d) In no instance shall the wages and the health and welfare
36 contributions paid by the state to the persons covered under this
37 section be less than the dollar amount paid as of the effective date
38 of this section.

39 (e) If the provisions of this section are in conflict with the
40 provisions of a memorandum of understanding reached pursuant

1 to Section 3517.5, the memorandum of understanding shall be
2 controlling without further legislative action, except that if the
3 provisions of a memorandum of understanding require the
4 expenditure of funds, the provisions may not become effective
5 unless approved by the Legislature in the annual Budget Act.

6 SEC. 11. Section 16391.1 of the Government Code is
7 amended to read:

8 16391.1. The Controller may transfer to the State Pay Roll
9 Revolving Fund the contributions required by Sections 20751,
10 20752, 20782, 20783, 22881, and 22883, and upon certification by
11 the Board of Administration of the Public Employees' Retirement
12 System in accordance with Sections 20754 and 20784, may
13 transfer from the State Pay Roll Revolving Fund to the Public
14 Employees' Retirement Fund and the Old Age and Survivors'
15 Insurance Revolving Fund the amounts of contributions so
16 certified.

17 SEC. 12. Section 19849.15 of the Government Code is
18 amended to read:

19 19849.15. (a) Notwithstanding Section 22846, the state
20 employer shall, upon the death of an employee while in state
21 service, continue to pay employer contributions for health, dental,
22 and vision benefits for a period not to exceed 120 days beginning
23 in the month of the employee's death. The surviving spouse or
24 other eligible family member shall be advised of all rights and
25 obligations during this period regarding the continuation of health
26 and dental benefits as an annuitant by the Public Employees'
27 Retirement System. The surviving spouse or other eligible family
28 member shall also be notified by the department during this period
29 regarding COBRA rights for the continuation of vision benefits.

30 (b) This section shall apply to state employees in state
31 bargaining units that have agreed to this section in a memorandum
32 of understanding, state employees excluded from the definition of
33 "state employee" in subdivision (c) of Section 3513, and officers
34 or employees of the executive branch of state government who are
35 not members of the civil service.

36 SEC. 13. Section 19871 of the Government Code is amended
37 to read:

38 19871. (a) Except as provided in Section 19871.2, when a
39 state officer or employee is temporarily disabled by illness or
40 injury arising out of and in the course of state employment, he or

1 she shall become entitled, regardless of his or her period of service,
2 to receive industrial disability leave and payments for a period not
3 exceeding 52 weeks within two years from the first day of
4 disability. These payments shall be in the amount of the employees
5 full pay less withholding based on his or her exemptions in effect
6 on the date of his or her disability for federal income taxes, state
7 income taxes, and social security taxes not to exceed 22 working
8 days of disability subject to Section 19875. Thereafter, the
9 payment shall be two-thirds of full pay. Payments shall be
10 additionally adjusted to offset disability benefits, excluding those
11 disability benefits payable from the State Teachers' Retirement
12 System, the employee may receive from other
13 employer-subsidized programs, except that no adjustment may be
14 made for benefits to which the employee's family is entitled up to
15 a maximum of three-quarters of full pay. Contributions to the
16 Public Employees' Retirement System or the State Teachers'
17 Retirement System shall be deducted in the amount based on full
18 pay. Discretionary deductions of the employee including those for
19 coverage under a state health benefits plan in which the employee
20 is enrolled shall continue to be deducted unless canceled by the
21 employee. State employer contributions to the Public Employees'
22 Retirement System and state employer normal retirement
23 contributions to the State Teachers' Retirement System shall be
24 made on the basis of full pay and the state contribution pursuant
25 to Sections 22871 and 22885 because of the employee's
26 enrollment in a health benefits plan shall continue.

27 (b) If the provisions of this section are in conflict with the
28 provisions of a memorandum of understanding reached pursuant
29 to Section 3517.5, the memorandum of understanding shall be
30 controlling without further legislative action, except that if the
31 provisions of a memorandum of understanding require the
32 expenditure of funds, the provisions may not become effective
33 unless approved by the Legislature in the annual Budget Act.

34 SEC. 14. Section 21450 of the Government Code is amended
35 to read:

36 21450. This system shall provide to any member who requests
37 materials relating to retirement, a written explanation of the
38 effects, if any, of each possible decision relating to the selection of
39 optional settlements, beneficiaries, and survivor benefits upon

1 health benefits that are provided pursuant to Part 5 (commencing
2 with Section 22750).

3 SEC. 15. Section 21506 of the Government Code is amended
4 to read:

5 21506. Any monthly allowance payable to a person, that had
6 accrued and remained unpaid at the time of his or her death, or any
7 uncashed warrant issued prior to the date of death of the person that
8 has been returned to this system, or any balance of prepaid
9 complementary health premiums received pursuant to Section
10 21691 or prepaid complementary annuitant health plan premiums
11 received pursuant to Section 22802, shall be paid in the following
12 order:

13 (a) In the event of the death of a retired person, to one of the
14 following:

15 (1) The beneficiary entitled to payment in accordance with an
16 optional settlement chosen by the member.

17 (2) The survivor entitled to payment of the survivor
18 continuance benefit provided under Section 21624.

19 (3) The beneficiary entitled to receive the lump-sum death
20 benefit provided upon death of a retired person if the person had
21 not chosen an optional settlement and there was no survivor who
22 was entitled to receive the survivor continuance benefit.

23 (b) In the event of the death of a person receiving a survivor
24 benefit, that benefit shall be paid to the beneficiary designated by
25 the survivor of a member under Section 21491.

26 (c) If there is no beneficiary entitled to receive payment under
27 either subdivision (a) or (b), the benefit shall be paid to either the
28 estate of the deceased person or the duly authorized representative
29 or representatives of the estate upon receipt by this system of a
30 court order appointing an executor, administrator, or personal
31 representative. If the estate does not require probate and the
32 deceased person had a trust, benefits may, in the judgment of the
33 board, be paid to the successor trustee as named in the trust.

34 (d) If there is no beneficiary entitled to receive payment of
35 benefits under subdivision (a), (b), or (c), the benefits shall be paid
36 to the surviving next of kin of the person pursuant to the order of
37 distribution specified in Section 21493.

38 SEC. 16. Section 21551 of the Government Code is amended
39 to read:

1 21551. Notwithstanding any other provision of this part, the
2 benefits payable to a surviving spouse pursuant to Sections 21541,
3 21546, 21547, 21548, and Article 3 (commencing with Section
4 21570), do not cease upon remarriage if the remarriage occurs on
5 or after September 19, 1989, for surviving spouses of deceased
6 state members, January 1, 1991, for surviving spouses of deceased
7 school members, upon the date a contracting agency elected to be
8 subject to this section for deceased local members, or January 1,
9 2000, for spouses of deceased local members if the contracting
10 agency has not elected to be subject to this section. Any surviving
11 spouse who elected the reduction specified in Section 21500 as it
12 read prior to January 1, 2000, shall be restored to the lifetime
13 allowance to which he or she was originally entitled effective
14 September 19, 1989, for state members, January 1, 1991, for
15 school members, upon the date a contracting agency elected to be
16 subject to this section, or January 1, 2000, if the contracting agency
17 has not elected to be subject to this section.

18 Pursuant to Section 22822, the surviving spouse who remarries
19 may not enroll his or her new spouse or stepchildren as family
20 members under the continued health benefits coverage of the
21 surviving spouse.

22 Any surviving spouse whose allowance has been discontinued
23 as a result of remarriage prior to the effective date of this section
24 shall have that allowance restored and resumed on January 1,
25 2000, or the first of the month, following receipt by the board of
26 a written application from the spouse for resumption of the
27 allowance, whichever is later. The amount of the benefits due shall
28 be calculated as though the allowance had never been reduced or
29 discontinued because of remarriage, and is not payable for the
30 period between the date of discontinuance because of remarriage
31 and January 1, 2000. The board has no duty to identify, locate, or
32 notify a spouse who previously had his or her allowance
33 discontinued because of remarriage.

34 SEC. 17. Section 21635 of the Government Code is amended
35 to read:

36 21635. Notwithstanding any other provisions of this part,
37 survivor continuance allowances payable to surviving spouses
38 upon death after retirement of a member do not cease upon
39 remarriage if the remarriage occurs on or after January 1, 1985, in
40 the case of local members of contracting agencies that elected to

be subject to this section, or all members on or after January 1, 2000. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse. The survivor continuance allowance shall be restored if that allowance has been discontinued upon the spouse's remarriage prior to January 1, 2000.

(a) The allowance shall be resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance discontinued because of remarriage.

SEC. 18. Section 21635.5 of the Government Code is amended to read:

21635.5. (a) Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of the surviving spouse of a deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whose death after retirement was due to injuries which resulted in industrial disability retirement, may not result in the reduction or cessation of any survivor continuance if the remarriage occurs on or after January 1, 1998. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) The surviving spouse of a deceased retired local safety member whose death after retirement was due to injuries which resulted in industrial disability retirement who previously lost entitlement due to remarriage shall be entitled to resume payment of the benefit effective either on January 1, 1999, or the first of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the

1 benefit payable shall be calculated as though the benefit had been
2 paid without interruption from the date of remarriage through the
3 benefit resumption effective date.

4 (c) The board has no duty to identify, locate, or notify a
5 remarried spouse who previously lost entitlement about the
6 resumption of benefits provided in this section. The board has no
7 duty to provide the name or address of any remarried spouse to any
8 person, agency, or entity for the purpose of notifying those who
9 may be eligible under this section.

10 (d) Nothing in this section may be construed to imply that the
11 benefits addressed will be paid retroactively.

12 ~~SEC. 19.— Section 21661 of the Government Code is amended~~
13 ~~to read:~~

14 ~~21661.—(a) The board shall contract with carriers offering~~
15 ~~long-term care insurance plans and enter into health care service~~
16 ~~plan contracts covering long-term care.~~

17 ~~The long-term care insurance plans and health care service plan~~
18 ~~contracts covering long-term care shall be made available~~
19 ~~periodically during open enrollment periods determined by the~~
20 ~~board.~~

21 ~~(b) The board shall award contracts to carriers who are~~
22 ~~qualified to provide long-term care benefits, and may develop and~~
23 ~~administer self-funded long-term care insurance plans. The board~~
24 ~~may offer one or more long-term care insurance plans or health~~
25 ~~care service plan contracts covering long-term care and may offer~~
26 ~~service or indemnity-type plans.~~

27 ~~(c) The long-term care insurance plans and health care service~~
28 ~~plan contracts covering long-term care shall include home,~~
29 ~~community, and institutional care and shall, to the extent~~
30 ~~determined by the board, provide substantially equivalent~~
31 ~~coverage to that required under Chapter 2.6 (commencing with~~
32 ~~Section 10231) of Part 2 of Division 2 of the Insurance Code, if the~~
33 ~~carrier has been approved by the Department of Managed Health~~
34 ~~Care pursuant to Chapter 2.2 (commencing with Section 1340) of~~
35 ~~Division 2 of the Health and Safety Code.~~

36 ~~(d) The classes of persons who shall be eligible to enroll are:~~

37 ~~(1) Active and retired members and annuitants of the Public~~
38 ~~Employees' Retirement System, and their spouses, parents,~~
39 ~~siblings, and spouses' parents.~~

~~(2) Active and retired members and annuitants of any county or district subject to the County Employees Retirement Law of 1937, and their spouses, parents, siblings, and spouses' parents.~~

~~(3) Active and retired members and annuitants of the State Teachers' Retirement Plan, and their spouses, parents, siblings, and spouses' parents.~~

~~(4) Active employees and retirees and annuitants of any public agency that is a contracting agency under this part or Part 5 (commencing with Section 22750), and their spouses, parents, siblings, and spouses' parents.~~

~~(5) Active and retired members and annuitants of the Judges' Retirement System, and their spouses, parents, siblings, and spouses' parents.~~

~~(6) Active and retired members and annuitants of the Judges' Retirement System II, and their spouses, parents, siblings, and spouses' parents.~~

~~(7) Active and retired members and annuitants of the Legislators' Retirement System, and their spouses, parents, siblings, and spouses' parents.~~

~~(8) Members of the California Assembly and Senate and their spouses, parents, siblings, and spouses' parents.~~

~~(9) Active and retired members and annuitants, and other classes of employees of other public employee retirement systems or public employers as the board determines may be eligible under the standards the board may prescribe, and their spouses, parents, siblings, and spouses' parents.~~

~~(10) Active employees and retirees and annuitants of any agency specified in paragraphs (1) through (9) who reside in the United States, its territories and possessions, or in a country in which a provider network can be established comparable in quality and effectiveness to those established in the United States.~~

~~(c) Any California public agency or retirement system may contract with the board to extend the provisions of this article to its active and retired employees and annuitants.~~

~~(f) Irrespective of paragraphs (1) through (10) of subdivision (d), no person may be enrolled unless he or she meets the eligibility and underwriting criteria established by the board.~~

~~(g) Irrespective of paragraphs (1) through (10) of subdivision (d), enrollment of active employees of the State of California shall be subject to Section 19867.~~

~~(h) The board shall establish eligibility criteria for enrollment, establish appropriate underwriting criteria for potential enrollees, define the scope of covered benefits, define the criteria to receive benefits, and set any other standards as needed. As used in this section, “sibling” means a sibling who is at least 18 years of age.~~

~~(i) The long-term care insurance plans and health care service plan contracts covering long-term care may not become part of, or subject to, the retirement or health benefits programs administered by the system.~~

~~(j) For any self-funded long-term care plan developed by the board, the premiums shall be deposited in the Public Employees’ Long-Term Care Fund.~~

~~SEC. 20.~~

~~SEC. 19.~~ Section 21690 of the Government Code is repealed.

~~SEC. 21.~~

~~SEC. 20.~~ Section 21691 of the Government Code is repealed.

~~SEC. 22.~~

~~SEC. 21.~~ Section 21692 of the Government Code is repealed.

~~SEC. 23.~~

~~SEC. 22.~~ Part 5 (commencing with Section 22750) is added to Division 5 of Title 2 of the Government Code, to read:

PART 5. THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT

CHAPTER 1. PUBLIC EMPLOYEES’ HEALTH BENEFITS

Article 1. General Provisions

22750. This part may be cited as the Public Employees’ Medical and Hospital Care Act. As used in any contract or statute, the term “Meyers-Geddes State Employees’ Medical and Hospital Care Act” shall be construed to refer to and mean the Public Employees’ Medical and Hospital Care Act.

22751. It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in state service.

(b) Enable the state to attract and retain qualified employees by providing health benefit plans similar to those commonly provided in private industry.

1 (c) Recognize and protect the state's investment in each
2 permanent employee by promoting and preserving good health
3 among state employees.

4 22753. The provisions of this part shall be controlling over
5 any memorandum of understanding reached pursuant to Chapter
6 10 (commencing with Section 3500) of Division 4 of Title 1,
7 except as otherwise provided by this part.

8 22755. The provisions of this part shall become operative
9 with respect to employees and annuitants of the University of
10 California upon filing with the board a resolution adopted by the
11 Regents of the University of California electing to be subject to the
12 provisions of this part.

13
14 Article 2. Definitions
15

16 22760. "Annuitant" means:

17 (a) A person who has retired within 120 days of separation from
18 employment and who receives a retirement allowance under any
19 state or University of California retirement system to which the
20 state was a contributing party.

21 (b) A surviving family member receiving an allowance in place
22 of an annuitant who has retired as provided in subdivision (a), or
23 as the survivor of a deceased employee under Section 21541,
24 21546, 21547, or 21547.7, or similar provisions of any other state
25 retirement system.

26 (c) A person who has retired within 120 days of separation from
27 employment with a contracting agency as defined in Section
28 22768 and who receives a retirement allowance from the
29 retirement system provided by the employer, or a surviving family
30 member who receives the retirement allowance in place of the
31 deceased.

32 (d) A judge who receives the benefits provided by subdivision
33 (e) of Section 75522.

34 (e) A person who was a state member for 30 years or more and
35 who, at the time of retirement, was a local member employed by
36 a contracting agency.

37 (f) A Member of the Legislature or an elective officer of the
38 state whose office is provided by the California Constitution, who
39 has at least ~~six~~ *eight* years of credited service, and who meets the
40 following conditions:

1 (1) Permanently separates from state service on or after
2 January 1, 1988, and not more than 10 years before or 10 years
3 after his or her minimum age for service retirement, or is an
4 inactive member of the Legislators' Retirement System pursuant
5 to Section 9355.2.

6 (2) Receives a retirement allowance under a state retirement
7 system supported in whole or in part by state funds other than the
8 University of California Retirement System.

9 (g) An exempt employee who meets all of the following
10 conditions:

11 (1) Has at least 10 years of credited state service that includes
12 at least two years of credited service while an exempt employee.

13 (2) Permanently separates from state service on or after
14 January 1, 1988, and not more than 10 years before or 10 years
15 after his or her minimum age for service retirement.

16 (3) Receives a retirement allowance under a state retirement
17 system supported in whole or in part by state funds other than the
18 University of California Retirement System.

19 (h) A person receiving a survivor allowance pursuant to Article
20 3 (commencing with Section 21570) of Chapter 14 of Part 3
21 provided that he or she was eligible to enroll in a health benefit plan
22 on the date of the member's death, on whose account the survivor
23 allowance is payable.

24 (i) (1) A family member of a deceased retired member of the
25 State Teachers' Retirement Plan, if the deceased member meets the
26 following conditions:

27 (A) Retired within 120 days of separation from employment.

28 (B) Retired before the member's school employer elected to
29 contract for health benefit coverage under this part.

30 (C) Prior to his or her death, received a retirement allowance
31 that did not provide for a survivor allowance to family members.

32 (2) The family member must elect coverage as an annuitant
33 within one calendar year from the date that the deceased member's
34 school employer elected to contract for health benefit coverage
35 under this part.

36 22762. "Board" means the Board of Administration of the
37 Public Employees' Retirement System.

38 22764. "Carrier" means a private insurance company
39 holding a valid outstanding certificate of authority from the
40 Insurance Commissioner, a medical society or other medical

group, a nonprofit membership corporation lawfully operating under Section 10270.5 of the Insurance Code, a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.) that is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

22766. “Complementary annuitant premium” means the additional amount to be paid by an annuitant whose allowance falls below the premium required to maintain enrollment in the chosen health benefit plan.

22768. “Contracting agency” means an entity that meets the eligibility criteria set forth in Section 22920 that has elected to be subject to this part pursuant to Section 22922.

22770. “Domestic partner” means an adult in a domestic partnership, as defined in Section 22771, with an employee or annuitant of an employer subject to this part, who is eligible for enrollment pursuant to Section 22818.

22771. A “domestic partnership” means ~~two~~ *either of the following*:

(a) *Two people who meet all of the criteria set forth in Section 297 of the Family Code.*

(b) *Two people who meet all of the criteria of a domestic partnership, as defined by the governing board of a contracting agency, if the contracting agency adopted that definition prior to January 1, 2000.*

22772. (a) “Employee” means:

(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California.

(2) An employee who is employed by a contracting agency, including, but not limited to, an officer or official of a contracting agency if the officer or official participates in the retirement system provided by the employer.

(3) An annuitant receiving a retirement allowance pursuant to Section 21228 who is employed by a contracting agency.

(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(b) Except as otherwise provided by this part, “employee” does not include persons employed on an intermittent, irregular, or less than half-time basis, or employees similarly situated.

22773. “Employer” means the state or any contracting agency that is subject to this part.

22774. “Exempt employee” means an employee exempt from civil service pursuant to subdivision (a), (c), (f), or (g) of Section 4 of Article VII of the California Constitution, or an exempt employee of the Attorney General or Legislative Counsel appointed pursuant to subdivision (m) of Section 4 of Article VII of the California Constitution.

22775. “Family member” means any of the following:

(a) An employee’s or annuitant’s spouse and any unmarried child, including an adopted child, a stepchild, or recognized natural child. The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(b) Notwithstanding any other provision of law, a domestic partner of an employee or annuitant shall be considered a family member for purposes of Section 22810, subdivision (a) of Section 22814, Sections 22822, 22830, 22837, 22841, 22842, 22843, 22844, subdivision (a) of Section 22846, and Sections 22847, 22863, 22871, 22879, 22890, 22911, and 22937.

22777. “Health benefit plan” means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

1 22778. “Medicare health benefit plan” means a health benefit
2 plan that provides benefits in coordination with Medicare Parts A
3 and B, including, but not limited to, a managed Medicare health
4 benefit plan providing coverage through the Medicare+Choice
5 program or a Medicare supplement health benefit plan that
6 provides coverage in coordination with the traditional Medicare
7 program.

8 22779. “Out-of-state employee” means an employee
9 permanently assigned to perform his or her duties outside of the
10 state. An employee is permanently assigned out-of-state if the
11 assignment is intended to exceed four months.

12 22781. “Prefunding” means the making of periodic
13 payments by an employer to partially or completely amortize the
14 unfunded actuarial obligation of the employer for health benefits
15 provided to annuitants and their family members.

16 22783. “School employer” means a contracting agency that
17 is a school district, county board of education, personnel
18 commission of a school district, a county superintendent of
19 schools, or a community college district.

20 22785. “Special district” means a nonprofit, self-governed
21 public agency located within the state, comprised solely of public
22 employees, and performing a governmental function.

23 22787. “System” means the California Public Employees’
24 Retirement System.

25
26 Article 3. The Board of Administration
27

28 22790. The provisions of this part shall be administered by the
29 board. The members of the board shall receive no salary for
30 performance of their duties and responsibilities under this part, but
31 shall be reimbursed for actual and necessary expenses incurred in
32 connection therewith.

33 22792. All laws governing the organization, procedures, and
34 administrative duties and responsibilities of the board shall be
35 applicable to the board in its administration of the provisions of
36 this part, to the extent that they are not in conflict with or
37 inconsistent with the provisions of this part.

38 22793. The board shall, in accordance with this part, approve
39 health benefit plans, and may contract with carriers offering health
40 benefit plans.

1 22794. The board shall have all powers reasonably necessary
2 to carry out the authority and responsibilities expressly granted or
3 imposed upon it under this part.

4 22795. Irrespective of the provisions of Sections 1090 and
5 1091, a board member who is an officer of a life insurer may
6 participate in all board activities in administering the provisions of
7 this part, except that he or she may not vote on the question of
8 whether a contract should be entered into or approval should be
9 given concerning any health benefit plan in which the board
10 member has a financial interest, as defined in the Political Reform
11 Act of 1974 (Title 9 (commencing with Section 81000)).

12 22796. (a) The board shall, pursuant to the Administrative
13 Procedure Act, adopt all necessary rules and regulations to carry
14 out the provisions of this part including, but not limited to, any of
15 the following:

16 (1) Regulations establishing the following:

17 (A) The scope and content of a basic health benefit plan.

18 (B) Reasonable minimum standards for health benefit plans.

19 (C) The time, manner, method, and procedures for determining
20 whether approval of a health benefit plan should be withdrawn.

21 (2) Regulations pertaining to any other matters that the board
22 may be expressly authorized or required to provide for by rule or
23 regulation by the provisions of this part.

24 (b) In adopting rules and regulations, the board shall be guided
25 by the needs and welfare of individual employees, particular
26 classes of employees, the state and contracting agencies, as well as
27 prevailing practices in the field of medical and hospital care.

28 22797. The board or an authorized representative may
29 perform audits of each employer and may, at a specified time and
30 place, require the employer to provide information or make
31 available for examination and copying books, papers, data, and
32 records, including, but not limited to, personnel and payroll
33 records, as deemed necessary by the board to determine
34 compliance with the provisions of this part. The information
35 obtained from an employer shall remain confidential.

36

Article 4. Eligibility

22800. (a) An employee or annuitant is eligible to enroll in an approved health benefit plan, in accordance with this part and the regulations of the board.

(b) Regulations may provide for the exclusion of employees on the basis of the nature, conditions, and type of their employment, including, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature. However, no employee may be excluded solely on the basis of the hazardous nature of the employment.

22802. (a) An annuitant whose retirement allowance is not sufficient to pay his or her required contribution for the health benefit plan in which he or she is enrolled may only remain enrolled if the annuitant pays to the board the balance of the contributions plus the related administrative costs, as determined by the board.

(b) (1) The annuitant shall pay the complementary annuitant premium by remitting to the board quarterly payments in advance, or by alternative monthly payment as determined by the board.

(2) The board may charge each annuitant who elects to pay the complementary annuitant premium an initial setup charge and a monthly maintenance charge, in amounts sufficient to ensure the ongoing support of the complementary annuitant premium program.

(3) If payments are not received by the 10th of the month for the following month, coverage shall be terminated and may not be resumed until the next open enrollment period.

(c) Upon receipt of a written application, the benefits provided by this section shall commence on the first day of the month following receipt of the application and the payment required by the board.

(d) The board has no duty to identify, locate, or notify any annuitant who may be eligible for the benefit provided by this section.

(e) Any complementary annuitant premium or any balance of unpaid health benefit plan premiums that accrues and remains unpaid at the time of the death of an annuitant shall be paid in accordance with the sequence prescribed in Section 21506.

(f) All moneys received pursuant to this section shall be deposited in the Public Employees' Contingency Reserve Fund in the account provided by subdivision (e) of Section 22910.

22803. An out-of-state employee shall be eligible for enrollment, in accordance with reasonable rules as the board may prescribe, to receive the benefits provided by this part.

22805. An employee receiving full-time service credit pursuant to Section 20900 may continue enrollment in a health benefit plan.

22806. (a) With respect to state officers and employees, a permanent intermittent employee who has an appointment of more than six months and works at least half-time shall be eligible to enroll in a health benefit plan within 60 calendar days after having been credited with a minimum of 480 paid hours within a designated six-month period. The designated six-month periods are January 1 to June 30, inclusive, and July 1 to December 31, inclusive, of each calendar year. To continue benefits, a permanent intermittent employee must be credited with a minimum of 480 paid hours in a designated six-month period or 960 paid hours in two consecutive periods.

(b) Permanent intermittent employees who are represented by State Bargaining Unit 6 may enroll in a health benefit plan within 60 calendar days following graduation from the academy of the Department of Corrections or the Department of the Youth Authority. To continue benefits, a permanent intermittent employee must be credited with a minimum number of hours, as provided in subdivision (a).

22807. (a) Notwithstanding subdivision (b) of Section 22772, a contracting agency may, by resolution filed with the board, deem all permanent or regular employees, except members of the State Teachers' Retirement Plan, who have an appointment of six months or longer but are employed less than half-time, to be employees subject to this part.

(b) Notwithstanding subdivision (b) of Section 22772, a contracting agency with employees who are members of the State Teachers' Retirement Plan may, by resolution filed with the board, deem any of the following to be employees subject to this part:

(1) Regular, permanent, probationary, or temporary employees or substitutes who have an appointment for at least a semester, for

1 six months, or for half of the school year, but are employed less
2 than half-time.

3 (2) Substitutes who have an appointment for 100 days or more
4 in the school year.

5 22808. An employee enrolled in a health benefit plan under
6 this part shall be entitled to have his or her coverage and the
7 coverage of any family members continued for the duration of a
8 leave of absence, upon his or her application and upon assuming
9 payments of the contributions otherwise required of the employer,
10 if any of the following apply:

11 (a) A leave of absence is granted to the employee without pay
12 under the State Civil Service Act and the rules or regulations of the
13 Department of Personnel Administration, or other comparable
14 leave.

15 (b) The employee is laid off and has not yet obtained other
16 employment, for a period of up to one year.

17 (c) The employee is employed by the California State
18 University and is granted a leave of absence for more than
19 half-time.

20 22809. *An employee of a contracting agency and his or her*
21 *family members may continue enrollment in a health benefit plan*
22 *under this part if the employee is granted a leave of absence by the*
23 *contracting agency for military duty. The coverage may continue*
24 *for up to one year.*

25 22810. A Member of the Legislature may enroll in a health
26 benefit plan. The contributions of the member shall be the total
27 cost of his or her coverage and the coverage of any family
28 members, less the amount contributed pursuant to Section 8901.6
29 by the state.

30 22811. *Notwithstanding any other provision of this part, a*
31 *former Member of the Legislature who has served six or more years*
32 *as a Member of the Legislature may elect, within 60 days after*
33 *permanent separation from state service, to enroll or continue*
34 *enrollment in a health benefit plan and dental care plan provided*
35 *to annuitants. Upon that election, the former Member shall pay the*
36 *total premiums related to that coverage and an additional 2*
37 *percent thereof for the administrative costs incurred by the board*
38 *and the Department of Personnel Administration in administering*
39 *this section.*

1 *The health and dental benefits shall be provided without*
2 *discrimination as to premium rates or benefits coverage. A person*
3 *who subsequently terminates his or her coverage under this section*
4 *may not reenroll pursuant to this section.*

5 22812. (a) A former legislative employee who separates
6 from employment while enrolled in a health benefit plan provided
7 by his or her employer, by reason of layoff, involuntary
8 termination, or retirement may enroll in a health benefit plan
9 within 60 days of separation from employment and, thereupon,
10 shall be deemed to have been enrolled on the date of the separation
11 from employment.

12 (b) An eligible survivor of a legislative employee who was
13 enrolled in a health benefit plan provided by the employer at the
14 time of death may, within 60 days of the death of the employee,
15 enroll in a health benefit plan and, thereupon, shall be deemed to
16 have been enrolled on the date of the employee's death.

17 22814. (a) A judge who retires pursuant to Chapter 11
18 (commencing with Section 75000) of Title 8, but is not yet
19 receiving a pension, may continue his or her coverage and the
20 coverage of any family members for the duration of the leave of
21 absence, upon his or her application and upon assuming payment
22 of the contributions otherwise required of the employer.

23 (b) (1) A judge who retires pursuant to subdivision (b) of
24 Section 75521 and has not attained 65 years of age may continue
25 his or her coverage and the coverage of any family members upon
26 assuming payment of the contributions otherwise required of the
27 employer. The judge shall also pay an additional 2 percent of the
28 premium amount to cover administrative expenses incurred by the
29 system or the Department of Personnel Administration.

30 (2) An election to continue coverage under this subdivision
31 shall be made within 60 days of permanent separation. A retired
32 judge who cancels that coverage may not reenroll.

33 (3) Upon attaining 65 years of age, a retired judge who has
34 continuous and uninterrupted coverage pursuant to this
35 subdivision shall be entitled to the applicable employer
36 contribution.

37 22815. (a) The following persons are eligible for enrollment
38 as provided in this section:

(1) A Member of the Legislature or an elective officer of the state whose office is provided by the California Constitution who meets all of the following conditions:

(A) Has at least ~~six~~ *eight* years of credited service.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement, or is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(2) An exempt employee who meets all of the following conditions:

(A) Has at least 10 years of credited state service that includes at least two years of credited service while an exempt employee.

(B) Permanently separates from state service on or after January 1, 1988, and more than 10 years before his or her minimum age for service retirement.

(C) Elects to remain a member of a state retirement system supported in whole or in part by state funds, other than the University of California Retirement System.

(b) During the period he or she is not yet receiving a retirement allowance, a person described by subdivision (a) may continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and the employee contribution. The person shall also pay an additional 2 percent of the premium amount to cover administrative expenses incurred by the system or the Department of Personnel Administration. An election to continue coverage under this section shall be made within 60 days of permanent separation.

(c) A person who receives coverage pursuant to this subdivision, and subsequently terminates that coverage, may not be allowed to reenroll and may not enroll as an annuitant pursuant to subdivision (d).

(d) Upon retirement and receipt of a retirement allowance, a person described in subdivision (b) may elect to continue enrollment in a health benefit plan or dental care plan without discrimination as to premium rates or benefit coverage, at which

1 time the state shall assume payment of the employer contribution
2 and the person shall thereafter be deemed an annuitant.

3 (e) The board has no duty to locate or notify any person who
4 may be eligible to enroll pursuant to this section.

5 22816. (a) A person who meets all of the criteria of an
6 annuitant, as defined in subdivision (f) or (g) of Section 22760,
7 other than the condition of receiving a retirement allowance under
8 a retirement system supported in whole or in part by state funds,
9 may continue enrollment in a health benefit plan or dental care
10 plan provided to annuitants without discrimination as to premium
11 rates or benefits coverage, upon assuming payment of the
12 contributions otherwise required of the former employer on
13 account of his or her enrollment and the employee contribution.
14 The person shall also pay an additional 2 percent of the premium
15 amount to cover administrative expenses incurred by the system
16 or the Department of Personnel Administration. An election to
17 continue coverage under this section shall be made within 60 days
18 of permanent separation.

19 (b) A person who receives coverage pursuant to this
20 subdivision who subsequently terminates that coverage may not
21 reenroll. However, termination under this subdivision does not
22 affect an annuitant's rights under Section 22817. The benefits
23 authorized by Section 22817 and this section are separate and
24 distinct benefits.

25 (c) The board has no duty to locate or notify any person who
26 may be eligible to enroll pursuant to this section.

27 22817. (a) An annuitant, as defined in subdivision (f) or (g)
28 of Section 22760, may, upon assuming payment of the employee
29 contribution, enroll in a health benefit plan or dental care plan
30 without discrimination as to premium rates or benefit coverage, at
31 which time the state shall assume payment of the employer
32 contribution.

33 (b) The board has no duty to locate or notify any person who
34 may be eligible to enroll pursuant to this section.

35 22818. (a) The following persons are eligible to enroll their
36 domestic partner as a family member in a health benefit plan:

37 (1) Employees of a contracting agency that has amended its
38 contract with the board to elect to provide health care coverage to
39 the domestic partners of its employees and annuitants, pursuant to
40 Section 22929.



(2) State employees who are members of a bargaining unit or are retired from a bargaining unit if there is a signed memorandum of understanding between the state and the recognized employee organization to adopt the benefits accorded under this section, and the Department of Personnel Administration makes this section simultaneously applicable to all eligible annuitants retired from the bargaining unit.

(3) Members of the system who are employed by the Assembly, the Senate, or the California State University, only if the Assembly Committee on Rules, the Senate Committee on Rules, or the Board of Trustees of the California State University, respectively, makes this section applicable to its employees.

(4) Members of the system who are state employees of the judicial branch, and judges and justices who are members of the Judges' Retirement System or the Judges' Retirement System II, if the Judicial Council makes this section applicable to those persons.

(5) Employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) upon adoption by the Department of Personnel Administration of regulations to implement employee benefits under this section for those persons. Regulations adopted or amended pursuant to this paragraph are not subject to review and approval by the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) and shall become effective immediately upon filing with the Secretary of State.

(b) In order to receive any benefit provided by this part, an employee or annuitant shall provide the board all of the following:

(1) Proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of Domestic Partnership pursuant to Section 298.5 of the Family Code *or have established a valid domestic partnership, as defined by his or her contracting agency in accordance with subdivision (b) of Section 22771.*

(2) A signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, the health benefit plan, and the system for any expenditures made for medical claims, processing fees, administrative expenses, and attorney's fees on behalf of the

1 domestic partner, if any of the submitted documentation is found
2 to be incomplete, inaccurate, or fraudulent.

3 (c) The employee or annuitant shall notify the employer or the
4 board when a domestic partnership has terminated, as required by
5 subdivision (c) of Section 299 of the Family Code, *or as required*
6 *by his or her contracting agency in accordance with subdivision*
7 *(b) of Section 22771.*

8 22818.5. (a) A domestic partner shall be considered a family
9 member for purposes of becoming an annuitant pursuant to
10 Section 22760.

11 (b) A child of the surviving domestic partner who was eligible
12 for enrollment in a health benefit plan as a family member prior
13 to the death of the employee or annuitant shall be eligible for health
14 coverage under this part as a family member if the surviving
15 domestic partner is enrolled in a health benefit plan.

16 (c) A surviving domestic partner of a deceased employee or
17 annuitant may not enroll additional family members in a health
18 benefit plan.

19 22819. (a) A family member of a deceased employee of a
20 contracting agency who is validly enrolled or is eligible for
21 enrollment hereunder on the date of the employee's death is
22 deemed to be an annuitant under Section 22760, pursuant to
23 regulations prescribed by the board. A domestic partner may not
24 become an annuitant pursuant to this section.

25 (b) A contracting agency shall remit the amounts required
26 under Section 22901 as well as the total amount of the premium
27 required from the employer and enrollees hereunder in accordance
28 with regulations of the board. Enrollment of the annuitant and
29 eligible family members shall be continuous following the death
30 of the employee, or the effective date of enrollment, so long as the
31 surviving family members meet the eligibility requirements of
32 Section 22775 and regulations pertinent thereto. Failure to timely
33 pay the required premiums and costs or the cancellation of
34 coverage by the annuitant shall terminate coverage without the
35 option to reenroll. The contracting agency may elect to require the
36 family members to pay all or any part of the employer premium
37 for enrollment.

38 (c) This section shall apply to a contracting agency only upon
39 the filing with the board of a resolution of its governing board
40 electing to be subject to this section.

1 22820. (a) Upon the death, on or after January 1, 2002, of a
 2 firefighter employed by a county, city, city and county, district, or
 3 other political subdivision of the state, a firefighter employed by
 4 the Department of Forestry and Fire Protection, or a peace officer
 5 as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33,
 6 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5,
 7 830.55, or 830.6 of the Penal Code, if the death occurred as a result
 8 of injury or disease arising out of and in the course of his or her
 9 official duties, the surviving spouse or other eligible family
 10 member of the deceased firefighter or peace officer, if uninsured,
 11 is deemed to be an annuitant under Section 22760 for purposes of
 12 enrollment. All eligible family members of the deceased
 13 firefighter or peace officer who are uninsured may enroll in a
 14 health benefit plan of the surviving spouse's choice. However, an
 15 unmarried child of the surviving spouse is not eligible to enroll in
 16 a health benefit plan under this section if the child was not a family
 17 member under Section 22775 and regulations pertinent thereto
 18 prior to the firefighter's or peace officer's date of death. The
 19 employer of the deceased firefighter or peace officer shall notify
 20 the board within 10 days of the death of the employee if a spouse
 21 or family member may be eligible for enrollment in a health
 22 benefit plan under this section.

23 (b) Upon notification, the board shall promptly determine
 24 eligibility and shall forward to the eligible spouse or family
 25 member the materials necessary for enrollment. In the event of a
 26 dispute regarding whether a firefighter's or peace officer's death
 27 occurred as a result of injury or disease arising out of and in the
 28 course of his or her official duties as required under subdivision
 29 (a), that dispute shall be determined by the Workers'
 30 Compensation Appeals Board, subject to the same procedures and
 31 standards applicable to hearings relating to claims for workers'
 32 compensation benefits. The jurisdiction of the Workers'
 33 Compensation Appeals Board under this section is limited to the
 34 sole issue of industrial causation and this section does not
 35 authorize the Workers' Compensation Appeals Board to award
 36 costs against the system.

37 (c) (1) Notwithstanding any other provision of law, but except
 38 as otherwise provided in subdivision (d), the state shall pay the
 39 employer contribution required for enrollment under this part for
 40 the uninsured surviving spouse of a deceased firefighter or peace

1 officer for life, and the other uninsured eligible family members
2 of a deceased firefighter or peace officer, provided the family
3 member meets the eligibility requirements of Section 22775 and
4 regulations pertinent thereto.

5 (2) The contribution payable by the state for each uninsured
6 surviving spouse and other uninsured eligible family members
7 shall be adjusted annually and be equal to the amount specified in
8 Section 22871.

9 (3) The state's contribution under this section shall commence
10 on the effective date of enrollment of the uninsured surviving
11 spouse or other uninsured eligible family members. The
12 contribution of each surviving spouse and eligible family member
13 shall be the total cost per month of the benefit coverage afforded
14 him or her under the plan less the portion contributed by the state
15 pursuant to this section.

16 (d) The cancellation of coverage by an annuitant, as defined in
17 this section, shall be final without option to reenroll, unless
18 coverage is canceled because of enrollment in an insurance plan
19 from another source.

20 (e) For purposes of this section, "surviving spouse" means a
21 husband or wife who was married to the deceased firefighter or
22 peace officer on the deceased's date of death and for a continuous
23 period of at least one year prior to the date of death.

24 (f) For purposes of this section, "uninsured" means that the
25 surviving spouse is not enrolled in an employer-sponsored health
26 plan under which the employer contribution covers 100 percent of
27 the cost of health care premiums.

28 (g) The board has no duty to identify, locate, or notify any
29 surviving spouse or eligible family member who may be or may
30 become eligible for benefits under this section.

31 22822. No person is eligible for enrollment in a health benefit
32 plan pursuant to this part as a family member if he or she becomes
33 a family member of a surviving spouse of a deceased member of
34 the system after the date of the member's death.

35 22823. (a) Notwithstanding Section 10270.5 of the
36 Insurance Code, an employee who is enrolled in a board-approved
37 health benefit plan sponsored by an employee organization that is
38 the exclusive representative pursuant to the Ralph C. Dills Act
39 (Chapter 10.3 (commencing with Section 3512) of Division 4 of
40 Title 1) and who terminates his or her membership in the respective

employee organization shall become ineligible for enrollment in the health benefit plan.

(b) Notwithstanding subdivision (a), the employee may continue enrollment in the employee organization health benefit plan until he or she is notified by the employee organization of the loss of eligibility. Upon notification of the loss of eligibility, the employee within 60 days may change his or her enrollment to another health benefit plan for which the employee is eligible.

22825. (a) An annuitant is not eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen unless the annuitant was enrolled in the California Highway Patrolmen Health Benefits Trust for a minimum of five years as an active employee.

(b) Notwithstanding subdivision (a), an annuitant that retires for disability before becoming eligible for service retirement may enroll in a health benefit plan offered by the California Association of Highway Patrolmen if otherwise eligible.

(c) Former members of the California State Police are eligible to participate in a health benefit plan offered by the California Association of Highway Patrolmen, pursuant to subdivision (a) or (b). Former members of the California State Police who transferred to the California Highway Patrol and retired before January 1, 2003, are exempt from the five-year requirement.

(d) This section only applies to persons who first became employees of the California Highway Patrol on or after January 1, 1994.

Article 5. Enrollment and Coverage

22830. (a) An employee or annuitant, under eligibility rules as prescribed by board regulations, may enroll in a health benefit plan approved or maintained by the board either as an individual or for self and family.

(b) Enrollment shall serve as authorization of the deduction of the contributions required under this part from the salary of an employee *or* allowance of an annuitant.

22831. (a) An annuitant may, as provided by regulations of the board, continue his or her enrollment, enroll within 60 days of retirement, enroll within 60 days of the death of the member, or enroll during any future open enrollment period without

1 discrimination as to premium rates or benefit coverage. If the
2 survivor of an annuitant is also an annuitant as defined in this part,
3 he or she may enroll within 60 days of the annuitant's death or
4 during any future open enrollment period, as provided by
5 regulations of the board.

6 (b) Board rules and regulations shall provide whatever
7 provisions necessary to eliminate or minimize the impact of
8 adverse selection because of the enrollment of annuitants that
9 would affect any health benefit plans approved or maintained. This
10 may include the reimbursement of surcharges for late enrollment
11 in Part B of Medicare if the board determines that payment of the
12 surcharge would be less costly than continued enrollment in a basic
13 plan.

14 22832. A permanent intermittent employee and an employee
15 who works less than full time may continue his or her enrollment
16 while retired from state employment if he or she was enrolled prior
17 to separation from state employment, and he or she lost eligibility
18 prior to separation but continued his or her coverage under federal
19 law.

20 22834. (a) An out-of-state employee who separates from
21 service and becomes an annuitant may continue his or her
22 enrollment in a board-approved out-of-state health benefit plan or
23 may transfer to any other health benefit plan approved or
24 maintained by the board, in which the employee would otherwise
25 be eligible to enroll. He or she must enroll in that health benefit
26 plan within 60 days in order for health benefits to continue.

27 (b) An annuitant who leaves this state and elects to reside in
28 another state in which a health benefit plan is approved or
29 maintained by the board may transfer his or her enrollment to that
30 health benefit plan and shall be entitled to the employer
31 contribution as provided in this part.

32 (c) When an out-of-state employee receiving benefits pursuant
33 to Section 22803 is permanently reassigned to perform his or her
34 duties within the state, the benefits may be continued only until the
35 employee has had reasonable opportunity to enroll in a health
36 benefit plan within the state that is approved or maintained by the
37 board.

38 22836. An employee enrolled in a health benefit plan who is
39 removed or suspended without pay and later reinstated or restored
40 to duty on the ground that the removal or suspension was

1 unjustified, unwarranted, or illegal may not be deprived of
2 coverage or benefits for the interim. Any contributions otherwise
3 payable by the employer that were actually paid by the employee
4 shall be restored to the same extent and effect as though the
5 removal or suspension had not taken place, and any other equitable
6 adjustments necessary and proper under the circumstances shall be
7 made in premiums, claims, and other charges.

8 22837. In the case of the death of an employee after an
9 application has been filed for the enrollment of family members,
10 but prior to the effective date of coverage, the family members are
11 deemed to have been covered on the date of the death of the
12 employee. If one of the family members becomes an annuitant,
13 enrollment shall continue without discrimination as to premium
14 rates or benefit coverage.

15 22839. Thirty days prior to, or 30 days following, retirement
16 and during the open enrollment period, a state employee enrolled
17 in a flexible benefit plan administered by the state shall be given
18 the option to enroll in a health benefit plan approved or maintained
19 by the board and receive the applicable employer contribution, if
20 the state employee would otherwise qualify as an annuitant.

21 22840. (a) Notwithstanding any other provision of law, a
22 state employee participating in a flexible benefits program
23 administered by the state, who either terminated enrollment in a
24 health benefit plan approved or maintained by the board in reliance
25 on other medical coverage or who was enrolled in a
26 board-approved health benefit plan for self only, may enroll in a
27 health benefit plan without regard to the open enrollment period
28 for either of the following purposes:

29 (1) For self only or self and all eligible dependents, if the
30 flexible cash option is discontinued.

31 (2) To add all eligible dependents, upon loss of coverage, where
32 the flexible cash option has not been selected.

33 (b) Enrollment shall be requested within 60 calendar days of
34 the loss of other coverage and submitted to the system by the
35 employer. The effective date of enrollment shall be the first day of
36 the month following the loss of other coverage. Enrollment shall
37 entitle the employee to receive the benefit of the applicable
38 employer contribution.

39 22841. (a) A transfer of enrollment from one health benefit
40 plan to another may be made by an employee or annuitant at times

1 and under conditions as may be prescribed by regulations of the
2 board.

3 (b) In the case of a health benefit plan in which services are
4 provided by a limited panel of physicians associated with the plan,
5 it is recognized that it may be impossible or impractical to maintain
6 acceptable physician-patient relationships with particular
7 employees, annuitants, or family members. In those cases, the
8 employee or annuitant may submit the question of ability to
9 maintain adequate physician-patient relationships for
10 consideration under the grievance procedure provided pursuant to
11 subdivision (d) of Section 22853. If the grievance procedure
12 results in a determination that an adequate physician-patient
13 relationship cannot reasonably be maintained, then the employee
14 or annuitant may, in accordance with regulations of the board,
15 change his or her enrollment to another health benefit plan without
16 regard to physical condition, age, race, or other status.

17 22842. A change in coverage based on a change in the family
18 status of an employee, annuitant, or family member enrolled in a
19 health benefit plan may be requested by the employee or annuitant
20 by filing an application within 30 days after the occurrence of the
21 change in family status or at other times and according to
22 conditions as may be prescribed by regulations of the board.

23 22843. If an employee or annuitant has a spouse or a domestic
24 partner who is an employee or annuitant, each spouse or domestic
25 partner may enroll as an individual. No person may be enrolled
26 both as an employee or annuitant and as a family member. A family
27 member may be enrolled in respect to only one employee or
28 annuitant.

29 22844. Employees, annuitants, and family members who
30 become eligible to enroll on or after January 1, 1985, for Part A
31 and Part B of Medicare may not be enrolled in a basic health
32 benefit plan. If the employee, annuitant, or family member is
33 enrolled in Part A and Part B of Medicare, he or she may enroll in
34 a Medicare health benefit plan. This section does not apply to
35 employees and family members that are specifically excluded
36 from enrollment in a Medicare health benefit plan by federal law
37 or regulation.

38 22846. (a) The regulations of the board shall provide for the
39 beginning and ending dates of coverage of employees, annuitants,
40 and family members enrolled in a health benefit plan. The

1 regulations may permit coverage to continue, in addition to any
2 temporary extension of coverage otherwise authorized under this
3 part, until the end of the pay period in which an employee is
4 separated from service or until the end of the month in which an
5 annuitant ceases to be entitled to an allowance. In case of the death
6 of an employee or annuitant, the regulations may permit a
7 temporary extension of the coverage of family members for a
8 period of more than 30 days.

9 (b) Notwithstanding any other provision of this part, an
10 employee terminating his or her service by voluntary separation or
11 due to dismissal for cause, prior to eligibility for retirement, may
12 extend enrollment until the end of the month following the month
13 in which his or her service is terminated.

14 22847. (a) Subject to subdivisions (b) and (c), if the eligible
15 family members of a deceased peace officer or firefighter of a
16 contracting agency, as described in subdivision (a) of Section
17 22820, are validly enrolled under this part on the date of the
18 employee's death, the contracting agency shall continue to pay the
19 employer contribution applicable to active employees for the
20 continued enrollment of those eligible family members for a
21 period not to exceed 120 days, beginning in the month of the
22 employee's death.

23 (b) A contracting agency shall remit the amounts required
24 under Section 22901 as well as the total amount of premium
25 required from the employer under this part in accordance with
26 regulations of the board. Enrollment of the eligible family
27 members shall be continuous following the death of the employee.

28 (c) Notwithstanding subdivision (a), the contracting agency's
29 obligation to pay the employer contribution pursuant to this
30 section shall terminate upon either of the following:

31 (1) Enrollment of the eligible family members pursuant to
32 Section 22820.

33 (2) A final determination of the board that the deceased
34 employee's family members are not eligible to enroll or continue
35 enrollment under this part.

36 (d) During the period that enrollment is continued pursuant to
37 this section, the surviving spouse or eldest eligible family member
38 shall retain the rights and obligations that otherwise would be
39 applicable to the employee under this part.

1 22848. An employee or annuitant who is dissatisfied with any
2 action or failure to act in connection with his or her coverage or the
3 coverage of his or her family members under this part shall have
4 the right of appeal to the board and shall be accorded an
5 opportunity for a fair hearing. The hearings shall be conducted,
6 insofar as practicable, pursuant to the provisions of Chapter 5
7 (commencing with Section 11500) of Part 1 of Division 3.

8
9 Article 6. Health Benefit Plans and Contracts
10

11 22850. (a) The board may, without compliance with any
12 provision of law relating to competitive bidding, enter into
13 contracts with carriers offering health benefit plans or with entities
14 offering services relating to the administration of health benefit
15 plans.

16 (b) The board may contract with carriers for health benefit
17 plans or approve health benefit plans offered by employee
18 organizations, provided that the carriers have operated
19 successfully in the hospital and medical care fields prior to the
20 contracting for or approval thereof. The plans may include
21 hospital benefits, surgical benefits, inpatient medical benefits,
22 outpatient benefits, obstetrical benefits, and benefits offered by a
23 bona fide church, sect, denomination, or organization whose
24 principles include healing entirely by prayer or spiritual means.

25 (c) Notwithstanding any other provision of this part, the board
26 ~~also~~ may contract with health benefit plans offering unique or
27 specialized health services.

28 (d) The board may administer self-funded or minimum
29 premium health benefit plans.

30 (e) The board may contract for or implement employee cost
31 containment and cost reduction incentive programs that involve
32 the employee, the annuitant, and family members as active
33 participants, along with the carrier and the provider, in a joint
34 effort toward containing and reducing the cost of providing
35 medical and hospital health care services to public employees. In
36 developing these plans, the board, in cooperation with the
37 Department of Personnel Administration, may request proposals
38 from carriers and certified public employee representatives.

39 (f) *Notwithstanding any other provision of this part, the board*
40 *may do any of the following:*

(1) Contract for, or approve, health benefit plans that charge a contracting agency and its employees and annuitants rates based on regional variations in the costs of health care services.

(2) Contract for, or approve, health benefit plans exclusively for the employees and annuitants of contracting agencies. State employees and annuitants may not enroll in these plans. The board may offer health benefit plans exclusively for employees and annuitants of contracting agencies in addition to or in lieu of other health benefit plans offered under this part. The governing body of a contracting agency may elect, upon filing a resolution with the board, to provide those health benefit plans to its employees and annuitants. The resolution shall be subject to mutual agreement between the contracting agency and the recognized employee organization, if any.

(g) The board shall approve any employee association health benefit plan that was approved by the board in the 1987–88 contract year or prior, provided the plan continues to meet the minimum standards prescribed by the board. The trustees of an employee association health benefit plan are responsible for providing health benefit plan administration and services to its enrollees. Notwithstanding any other provision of this part, the California Correctional Peace Officer Association Health Benefits Trust may offer different health benefit plan designs with varying premiums in different areas of the state.

~~(g)~~

(h) Irrespective of any other provision of law, the sponsors of a health benefit plan approved under this section may reinsure the operation of the plan with an admitted insurer authorized to write disability insurance, if the premium includes the entire prepayment fee.

22851. The board may enter into any joint purchasing arrangement with private or public entities, if the arrangement does all of the following:

- (a) Benefits persons receiving health coverage under this part.
- (b) Does not restrict the authority of the board or the state.
- (c) Does not jeopardize the system’s tax status or its governmental plan status.

22852. (a) A contract for a health benefit plan shall be for a uniform term of at least one year and may be made automatically renewable in the absence of notice of termination by either party.

1 Every contract for administrative services with respect to the
2 operation of a self-funded health benefit plan administered by the
3 board shall be on terms as the board deems necessary or desirable.

4 (b) The board shall determine the beginning and ending dates
5 of a contract with the carrier of a health benefit plan and with an
6 entity providing services in connection with the administration of
7 a health benefit plan.

8 (c) Irrespective of an agreed upon termination date, the board
9 may extend a contract for a reasonable period of time, subject to
10 agreed upon terms and conditions. ~~In no event shall the term of any~~
11 ~~contract exceed three years.~~

12 22853. (a) Each contract shall contain a detailed statement of
13 benefits offered and shall include maximums, limitations,
14 exclusions, and other definitions of benefits as the board deems
15 necessary or desirable.

16 (b) ~~A~~ *Except as otherwise provided by this part, a health*
17 *benefit plan or contract may not exclude any person on account of*
18 *physical condition, age, race, or other status.* ~~Transfer~~ *Except as*
19 *otherwise provided by this part, transfer of enrollment to a health*
20 *benefit plan shall be open to all employees and annuitants in*
21 *accordance with Section 22841.*

22 (c) A health benefit plan or contract shall offer to each
23 employee or annuitant whose enrollment in the plan is terminated
24 other than by cancellation of enrollment, voluntary separation
25 from employment, or dismissal from employment for cause, the
26 option to convert to an individual health benefits policy, without
27 regard to health status, but within the time limit approved by the
28 board. An employee or annuitant that exercises this option shall
29 pay the full periodic charges of the individual policy according to
30 the terms and conditions prescribed by the carrier and approved by
31 the board.

32 (d) A health benefit plan or contract shall provide grievance
33 procedures to protect the rights of employees and annuitants.

34 (e) The board shall provide a sufficient number of health
35 benefit plans that provide chiropractic services so that every
36 employee and annuitant has a reasonable opportunity to enroll in
37 a health benefit plan that provides chiropractic services without
38 prior referral by a physician.

39 22853.1. (a) A health benefit plan or contract shall provide
40 coverage for a vaccine for acquired immune deficiency syndrome

1 (AIDS) that is approved for marketing by the federal Food and
2 Drug Administration and that is recommended by the United
3 States Public Health Service.

4 (b) This section does not require a health benefit plan or
5 contract to provide coverage for any clinical trials relating to an
6 AIDS vaccine or for any AIDS vaccine that has been approved by
7 the federal Food and Drug Administration in the form of an
8 investigational new drug application.

9 (c) Nothing in this section is to be construed in any manner to
10 limit or impede the board's power or responsibility to purchase the
11 vaccine at the most cost-effective price.

12 22855. The board shall withdraw its approval of a health
13 benefit plan if it finds that the plan or carrier is not in compliance
14 with the standards prescribed therefor, that the plan or carrier has
15 not paid or will be unable to pay claims accrued or to accrue, or for
16 other good cause as shown. The board shall provide reasonable
17 notice of its intention to withdraw approval of a health benefit plan
18 to any carrier, employee organization, or organization of
19 physicians that may be directly interested, to the persons enrolled
20 in the health benefit plan, and to other persons and organizations
21 as the board may deem proper. The notice shall state the effective
22 date of, and reason for, the withdrawal of board approval. The
23 approval of a health benefit plan may not be withdrawn until after
24 the notice and after all interested parties have been afforded
25 reasonable opportunity for public hearing on the question. The
26 hearings shall be conducted, insofar as practicable, pursuant to
27 Chapter 5 (commencing with Section 11500) of Part 1 of Division
28 3.

29 22857. (a) Notwithstanding any other provision of law, the
30 board may contract with carriers licensed and doing business in
31 other states to provide health benefits for employees and
32 annuitants who reside outside of this state. The contracts shall be
33 on terms as the board deems necessary or desirable. The health
34 benefit plans are not necessarily required to meet the minimum
35 requirements of the board, as specified in board regulations, but
36 shall provide appropriate safeguards for members.

37 (b) An out-of-state employee may enter into a group health
38 benefit plan provided by an out-of-state health maintenance
39 organization, group insurance policy, group service agreement,
40 membership or subscription contract, or other similar group

1 arrangement provided by a carrier for the purpose of providing,
2 arranging, paying for, or reimbursing the cost of health benefits
3 and that is in operation in the community or area where the
4 employee's duties are usually performed. These contracts, plans,
5 agreements, arrangements, or policies shall meet with the approval
6 of, or meet standards approved by, the board.

7 22859. (a) A health benefit plan or contract may not provide
8 any of the following:

9 (1) An exception for other coverage where the other coverage
10 is entitlement to Medi-Cal or medicaid benefits.

11 (2) An exception for Medi-Cal or medicaid benefits.

12 (3) A benefits reduction if the person has entitlement to
13 Medi-Cal or medicaid benefits.

14 (4) An exception for enrollment because of an applicant's
15 entitlement to Medi-Cal or medicaid benefits.

16 (b) Each health benefit plan shall be considered in determining
17 the third-party liability for medical expenses incurred by a
18 Medi-Cal or a medicaid recipient.

19 22860. It is the policy of the Legislature that benefits provided
20 by a health benefit plan be integrated with the benefits provided by
21 federal or state plans for health care services for the aged in which
22 there is federal or state financial participation. The board shall
23 adopt rules and regulations necessary to implement this section.
24 Notwithstanding any other provision of this part, those rules and
25 regulations may establish exclusions and limitations with respect
26 to benefits, different rates within health benefit plans for
27 employees or annuitants eligible to benefits under other plans, or
28 enrollment of those employees or annuitants in separate plans.

29 22863. (a) The board shall make available to employees and
30 annuitants eligible to enroll in a health benefit plan information
31 that will enable the employees or annuitants to exercise an
32 informed choice among the available health benefit plans. Each
33 employee or annuitant enrolled in a health benefit plan shall be
34 issued an appropriate document setting forth or summarizing the
35 services or benefits to which the employee, annuitant, or family
36 members are entitled to thereunder, the procedure for obtaining
37 benefits, and the principal provisions of the health benefit plan.

38 (b) The board shall compile and provide data regarding age,
39 sex, family composition, and geographical distribution of
40 employees and annuitants and make continuing study of the

operation of this part, including, but not limited to, surveys and reports on health benefit plans, medical and hospital benefits, the standard of care available to employees and annuitants, and the experience of health benefit plans receiving contributions under this part with respect to matters such as gross and net cost, administrative cost, and utilization of benefits.

(c) The board shall, with the advice of and in consultation with persons or organizations having special skills or experience in the provision of health care services, study methods of evaluating and improving the quality and cost of health care services provided under this part.

22864. (a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided. ~~This~~

(b) ~~This part does not limit the board's authority to enter~~ *do any of the following:*

(1) ~~Enter into contracts with carriers providing compensation based on carrier performance or to credit performance.~~

(2) *Credit* premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) *Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.*

22865. Prior to the approval of proposed benefits and premium readjustments authorized under Section 22864, the board shall notify the Legislature, the Trustees of the California State University, and the Department of Personnel Administration of the proposed changes in writing.

22866. The board shall report to the Legislature annually, on November 1, regarding the success or failure of each health benefit plan. The report shall include, but not be limited to, the costs to the board and to participants, the degree of satisfaction of members

1 and annuitants with the health benefit plans and with the quality
2 of the care provided, as determined by a representative sampling
3 of participants, and the level of accessibility to preferred providers
4 for rural members who do not have access to health maintenance
5 organizations.

6 22867. The provisions of this article do not supersede,
7 modify, or in any manner alter or impair the effect of any provision
8 of Chapter 5 (commencing with Section 2000) of Division 2 of the
9 Business and Professions Code or any provision of the Insurance
10 Code. This article shall be interpreted and applied in a manner
11 consistent with those provisions of the Business and Professions
12 Code and the Insurance Code.

13 22869. Information disseminated by the board pursuant to
14 Section 22863, and compliance with regulations of the board
15 adopted pursuant to subdivision (a) of Section 22846 and Sections
16 22800 and 22831, shall be deemed to satisfy the requirements of
17 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
18 Health and Safety Code.

19
20 Article 7. State Contributions
21

22 22870. (a) The state and each employee or annuitant shall
23 contribute a portion of the cost of providing the benefit coverage
24 afforded under the approved health benefit plan in which the
25 employee or annuitant is enrolled.

26 (b) An annuitant is entitled to only one employer contribution.
27 If more than one annuitant is receiving an allowance as the
28 survivor of the same employee or annuitant, there shall be only one
29 employer contribution with respect to all of those annuitants.

30 (c) The contribution of each employee and annuitant shall be
31 the total cost per month of the benefit coverage afforded him or her
32 under the health benefit plan or plans in which he or she is enrolled
33 less the portion thereof to be contributed by the employer. The
34 employer contribution for each employee or annuitant shall
35 commence on the effective date of enrollment.

36 22871. (a) The employer contribution, with respect to each
37 employee or annuitant who is in the employment of or retired from
38 service with the state, including an academic position with the
39 California State University, or is a survivor of that person, shall be
40 adjusted by the Legislature in the annual Budget Act. Those

1 adjustments shall be based on the principle that the employer
2 contribution for each employee or annuitant shall be an amount
3 equal to 100 percent of the weighted average of the health benefit
4 plan premiums for an employee or annuitant enrolled for
5 self-alone, during the benefit year to which the formula is applied,
6 for the four health benefit plans that had the largest state
7 enrollment, excluding family members, during the previous
8 benefit year. For each employee or annuitant with enrolled family
9 members, the employer shall contribute an additional 90 percent
10 of the weighted average of the additional premiums required for
11 enrollment of those family members, during the benefit year to
12 which the formula is applied, in the four health benefit plans that
13 had the largest state enrollment, excluding family members,
14 during the previous benefit year. *Only the enrollment of, and*
15 *premiums paid by, state employees and annuitants enrolled in a*
16 *basic health benefit plan shall be counted for purposes of*
17 *calculating the employer contribution under this section.*

18 (b) If the provisions of this section are in conflict with the
19 provisions of a memorandum of understanding reached pursuant
20 to Section 3517.5 or Chapter 12 (commencing with Section 3560)
21 of Division 4 of Title 1, the memorandum of understanding shall
22 be controlling without further legislative action, except that if
23 those provisions require the expenditure of funds, the provisions
24 may not become effective unless approved by the Legislature.

25 22871.5. (a) Notwithstanding Section 22871, the employer
26 contribution with respect to each excluded employee, as defined
27 by subdivision (b) of Section 3527, who is otherwise eligible shall
28 be determined by the Department of Personnel Administration
29 subject to the appropriation of funds by the Legislature.

30 (b) Notwithstanding Section 22871, the employer contribution
31 with respect to each state employee, as defined by subdivision (c)
32 of Section 3513, who is otherwise eligible shall be determined
33 through the collective bargaining process subject to the
34 appropriation of funds by the Legislature.

35 22871.6. (a) *Notwithstanding Section 22871, subdivision (b)*
36 *of Section 22871.5, or any other provision of this article, the*
37 *employer contribution with respect to employees in State*
38 *Bargaining Unit 9 shall be as described in subdivision (b).*

39 (b) *Effective January 1, 2004, the employer contribution for*
40 *each employee shall be an amount equal to 80 percent of the*

1 *weighted average of the basic health benefit plan premiums for an*
2 *active state civil service employee enrolled for self alone, during*
3 *the benefit year to which the formula is applied, for the four basic*
4 *health benefit plans that had the largest active state civil service*
5 *enrollment, excluding family members, during the previous benefit*
6 *year. For each employee with enrolled family members, the*
7 *employer shall contribute an additional 80 percent of the weighted*
8 *average of the additional premiums required for enrollment of*
9 *those family members, during the benefit year to which the formula*
10 *is applied, in the four basic health benefit plans that had the largest*
11 *active state civil service enrollment, excluding family members,*
12 *during the previous benefit year.*

13 *(c) The employer contribution provided under this section is*
14 *not applicable unless and until the effective date of the employee's*
15 *enrollment in an approved health benefit plan.*

16 *(d) If the provisions of this section are in conflict with the*
17 *provisions of a memorandum of understanding reached pursuant*
18 *to Section 3517.5 or Chapter 12 (commencing with Section 3560)*
19 *of Division 4 of Title 1, the memorandum of understanding shall*
20 *be controlling without further legislative action, except that if*
21 *those provisions require the expenditure of funds, the provisions*
22 *may not become effective unless approved by the Legislature.*

23 *22871.7. (a) Notwithstanding Section 22871, subdivision (b)*
24 *of Section 22871.5, or any other provision of this article, the*
25 *employer contribution with respect to employees in State*
26 *Bargaining Units 5 and 8 shall be as described in subdivision (b).*

27 *(b) (1) From January 1, 2004, to December 31, 2005,*
28 *inclusive, the employer contribution for each employee shall be an*
29 *amount equal to 80 percent of the weighted average of the basic*
30 *health benefit plan premiums for an active state civil service*
31 *employee enrolled for self alone, during the benefit year to which*
32 *the formula is applied, for the four basic health benefit plans that*
33 *had the largest active state civil service enrollment, excluding*
34 *family members, during the previous benefit year. For each*
35 *employee with enrolled family members, the employer shall*
36 *contribute an additional 80 percent of the weighted average of the*
37 *additional premiums required for enrollment of those family*
38 *members, during the benefit year to which the formula is applied,*
39 *in the four basic health benefit plans that had the largest active*

1 *state civil service enrollment, excluding family members, during*
2 *the previous benefit year.*

3 (2) *Beginning January 1, 2006, the employer contribution for*
4 *each employee shall be an amount equal to 85 percent of the*
5 *weighted average of the basic health benefit plan premiums for an*
6 *active state civil service employee enrolled for self alone, during*
7 *the benefit year to which the formula is applied, for the four basic*
8 *health benefit plans that had the largest active state civil service*
9 *enrollment, excluding family members, during the previous benefit*
10 *year. For each employee with enrolled family members, the*
11 *employer shall contribute an additional 80 percent of the weighted*
12 *average of the additional premiums required for enrollment of*
13 *those family members, during the benefit year to which the formula*
14 *is applied, in the four basic health benefit plans that had the largest*
15 *active state civil service enrollment, excluding family members,*
16 *during the previous benefit year.*

17 (c) *The employer contribution provided under this section is*
18 *not applicable unless and until the effective date of the employee's*
19 *enrollment in an approved health benefit plan.*

20 (d) *If the provisions of this section are in conflict with the*
21 *provisions of a memorandum of understanding reached pursuant*
22 *to Section 3517.5 or Chapter 12 (commencing with Section 3560)*
23 *of Division 4 of Title 1, the memorandum of understanding shall*
24 *be controlling without further legislative action, except that if*
25 *those provisions require the expenditure of funds, the provisions*
26 *may not become effective unless approved by the Legislature.*

27 22871.8. (a) *Notwithstanding Section 22871, subdivision (b)*
28 *of Section 22871.5, or any other provision of this article, the*
29 *employer contribution with respect to employees in State*
30 *Bargaining Units 16 and 19 shall be as described in subdivision*
31 *(b).*

32 (b) (1) *From January 1, 2004, to December 31, 2005,*
33 *inclusive, the employer contribution for each employee shall be an*
34 *amount equal to 80 percent of the weighted average of the basic*
35 *health benefit plan premiums for an active state civil service*
36 *employee enrolled for self alone, during the benefit year to which*
37 *the formula is applied, for the four basic health benefit plans that*
38 *had the largest active state civil service enrollment, excluding*
39 *family members, during the previous benefit year. For each*
40 *employee with enrolled family members, the employer shall*

1 contribute an additional 80 percent of the weighted average of the
2 additional premiums required for enrollment of those family
3 members, during the benefit year to which the formula is applied,
4 in the four basic health benefit plans that had the largest active
5 state civil service enrollment, excluding family members, during
6 the previous benefit year.

7 (2) Beginning January 1, 2006, the employer contribution for
8 each employee shall be an amount equal to 85 percent of the
9 weighted average of the basic health benefit plan premium for an
10 active state civil service employee enrolled for self alone, during
11 the benefit year to which the formula is applied, for the four basic
12 health benefit plans that had the largest active state civil service
13 enrollment, excluding family members, during the previous benefit
14 year. For each employee with enrolled family members, the
15 employer shall contribute an additional 80 percent of the weighted
16 average of the additional premiums required for enrollment of
17 those family members, during the benefit year to which the formula
18 is applied, in the four basic health benefit plans that had the largest
19 active state civil service enrollment, excluding family members,
20 during the previous benefit year.

21 (c) The employer contribution provided under this section is
22 not applicable unless and until the effective date of the employee's
23 enrollment in an approved health benefit plan.

24 (d) If the provisions of this section are in conflict with the
25 provisions of a memorandum of understanding reached pursuant
26 to Section 3517.5 or Chapter 12 (commencing with Section 3560)
27 of Division 4 of Title 1, the memorandum of understanding shall
28 be controlling without further legislative action, except that if
29 those provisions require the expenditure of funds, the provisions
30 may not become effective unless approved by the Legislature.

31 22871.9. (a) Notwithstanding Section 22871, subdivision (b)
32 of Section 22871.5, or any other provision of this article, the
33 employer contribution with respect to employees in State
34 Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21 shall be as
35 described in subdivision (b).

36 (b) Effective January 1, 2004, the employer contribution for
37 each employee shall be an amount equal to 80 percent of the
38 weighted average of the basic health benefit plan premiums for an
39 active state civil service employee enrolled for self alone, during
40 the benefit year to which the formula is applied, for the four basic

1 health benefit plans that had the largest active state civil service
2 enrollment, excluding family members, during the previous benefit
3 year. For each employee with enrolled family members, the
4 employer shall contribute an additional 80 percent of the weighted
5 average of the additional premiums required for enrollment of
6 those family members, during the benefit year to which the formula
7 is applied, in the four basic health benefit plans that had the largest
8 active state civil service enrollment, excluding family members,
9 during the previous benefit year.

10 (c) The employer contribution provided under this section is
11 not applicable unless and until the effective date of the employee's
12 enrollment in an approved health benefit plan.

13 (d) If the provisions of this section are in conflict with the
14 provisions of a memorandum of understanding reached pursuant
15 to Section 3517.5 or Chapter 12 (commencing with Section 3560)
16 of Division 4 of Title 1, the memorandum of understanding shall
17 be controlling without further legislative action, except that if
18 those provisions require the expenditure of funds, the provisions
19 may not become effective unless approved by the Legislature.

20 22872. If an out-of-state employee is enrolled in a health
21 benefit plan, policy, contract, service agreement, or arrangement
22 described in Section 22857 and elects to receive the benefits
23 provided by this part, the state and the employee shall contribute
24 and disburse a portion of the cost of providing the benefit coverage
25 in the same amounts and in a like manner as is provided for
26 contributions, withholdings, appropriations, and payments for
27 health benefit plans under Sections 22871, 22880, 22881, 22883,
28 22885, and 22913. Disbursements may be made to any person,
29 association, corporation, insurer, or other entity responsible for
30 providing the benefit coverage, except that the state shall make no
31 contribution to the Public Employees' Contingency Reserve Fund,
32 for other than administrative expense, with respect to an
33 out-of-state employee and the fund may not be made available to
34 any extent or for any purpose other than payment of administrative
35 costs with respect to the employee or the plan, policy, contract,
36 service agreement, or arrangement in which he or she is enrolled
37 under this part.

38 22873. (a) Notwithstanding Section 22871, a state employee
39 ~~who first becomes a member of the system~~ first hired on or after
40 January 1, 1985, may not be vested for the full employer

1 contribution payable for annuitants unless he or she has 10 years
2 of credited state service at the time of retirement. The employer
3 contribution payable for annuitants with less than 10 years of
4 service shall be prorated based on credited state service at the time
5 of retirement. This section shall apply only to state employees who
6 retire for service. For purposes of this section, “state service”
7 means service rendered as an employee or an appointed or elected
8 officer of the state, including all municipal, superior, and justice
9 court services rendered by a justice of the Supreme Court or court
10 of appeal, or by a judge of the superior court.

11 (b) This section does not apply to employees of the California
12 State University or of the Legislature.

13 22874. (a) Notwithstanding Sections 22870, 22871, and
14 22873, a state employee, defined by subdivision (c) of Section
15 3513, who becomes a state member of the system after January 1,
16 1989, may not receive any portion of the employer contribution
17 payable for annuitants unless the person is credited with 10 years
18 of state service at the time of retirement. This section shall apply
19 only to state employees that retire for service. For purposes of this
20 section, “state service” means service rendered as an employee of
21 the state or an appointed or elected officer of the state for
22 compensation.

23 (b) This section does not apply to employees of the California
24 State University or the Legislature.

25 22875. (a) Notwithstanding Sections 22870, 22871, 22873,
26 and 22874, a state employee who becomes a state member of the
27 system after January 1, 1990, and is either excluded from the
28 definition of a state employee in subdivision (c) of Section 3513,
29 or a nonelected officer or employee of the executive branch of
30 government who is not a member of the civil service, may not
31 receive any portion of the employer contribution payable for
32 annuitants, unless the employee is credited with 10 years of state
33 service, as defined by this section, at the time of retirement.

34 (b) The percentage of the employer contribution payable for
35 postretirement health benefits for an employee subject to this
36 section shall be based on the completed years of credited state
37 service at retirement as shown in the following table:
38



1	Credited Years	Percentage of Employer
2	of Service	Contribution
3	10	50
4	11	55
5	12	60
6	13	65
7	14	70
8	15	75
9	16	80
10	17	85
11	18	90
12	19	95
13	20 or more	100

14
15 (c) This section shall apply only to state employees who retire
16 for service.

17 (d) Benefits provided to an employee subject to this section
18 shall be applicable to all future state service.

19 (e) For the purposes of this section, “state service” means
20 service rendered as an employee or an appointed or elected officer
21 of the state for compensation.

22 (f) This section does not apply to employees of the California
23 State University or the Legislature.

24 22875.5. (a) If the state has assumed from a public agency a
25 function and the related personnel, service rendered by that
26 personnel for compensation as employees or appointed or elective
27 officers of that public agency may not be credited as state service
28 for the purposes of Section 22874 or 22875, unless both of the
29 following apply:

30 (1) The former employer has paid or agreed to pay the state the
31 amount actuarially determined to equal the cost for any employee
32 health benefits that were vested at the time that the function and
33 the related personnel were assumed by the state.

34 (2) The Department of Finance finds that the contract contains
35 a benefit factor sufficient to reimburse the state for the amount
36 necessary to fully compensate for the postretirement health benefit
37 costs of those personnel.

38 (b) For noncontracting public agencies, the state agency that
39 has assumed the function shall certify the completed years of

1 public agency service to be credited to the employee as state
2 service credit under Section 22874 or 22875.

3 22876. (a) For the purpose of meeting the vesting
4 requirements of Section 22873, employees of the County of
5 Merced who became employees of the state as a result of the state's
6 assuming firefighting functions for that county shall be credited
7 with state service for each completed year of service with the
8 county that would have been credited by the county for the vesting
9 of postretirement health benefits. The definition of "state service"
10 does not apply to employees of the County of Merced who became
11 employees of the state as a result of the state assuming firefighting
12 functions for the county on or before August 1, 1988.

13 (b) Notwithstanding subdivisions (e) and (f) of Section 22875,
14 for the purposes of meeting the vesting requirements of Section
15 22873, 22874, or 22875, employees of the Cities of Rubidoux and
16 Coachella who become employees of the state, on or before
17 December 31, 1990, as a result of the state's assuming firefighting
18 functions for the city, shall be credited with state service for each
19 completed year of service with the city. The city shall identify
20 those employees and provide the corresponding service credit
21 information to the board.

22 (c) No employee whose firefighting function was transferred to
23 the state after December 31, 1990, shall receive credit toward
24 postretirement health benefits vesting unless the former employer
25 agrees to reimburse the state for the costs of that credit in
26 accordance with ~~subdivisions (e) and (f) of Section 22875~~ Section
27 22875.5.

28 22877. (a) As used in this section, the following definitions
29 shall apply:

30 (1) "Coinsurance" means the provision of a health benefit plan
31 design that requires the health benefit plan and state employee or
32 annuitant to share the cost of hospital or medical expenses at a
33 specified ratio.

34 (2) "Deductible" means the annual amount of out-of-pocket
35 medical expenses that a state employee or annuitant must pay
36 before the health benefit plan begins paying for expenses.

37 (3) "Program" means the Rural Health Care Equity Program.

38 (4) "Rural area" means an area in which there is no
39 board-approved health maintenance organization plan available

1 for enrollment by state employees or annuitants residing in the
2 area.

3 (b) (1) The Rural Health Care Equity Program is hereby
4 established for the purpose of funding the subsidization and
5 reimbursement of premium costs, deductibles, coinsurance, and
6 other out-of-pocket health care expenses paid by employees and
7 annuitants living in rural areas that would otherwise be covered if
8 the state employee or annuitant was enrolled in a board-approved
9 health maintenance organization plan. The program shall be
10 administered by the Department of Personnel Administration or
11 by a third-party administrator approved by the Department of
12 Personnel Administration in a manner consistent with all
13 applicable state and federal laws. The board shall determine the
14 rural area for each subsequent fiscal year, at the same time that
15 premiums for health maintenance organization plans are
16 approved.

17 (2) Separate accounts shall be maintained within the program
18 for all of the following:

19 (A) Employees, as defined in subdivision (c) of Section 3513.

20 (B) Excluded employees, as defined in subdivision (b) of
21 Section 3527.

22 (C) State annuitants.

23 (c) Moneys in the program shall be allocated to the respective
24 accounts as follows:

25 (1) The contribution provided by the state with respect to each
26 employee, as defined in subdivision (c) of Section 3513, who lives
27 in a rural area and is otherwise eligible, shall be an amount
28 determined through the collective bargaining process.

29 (2) The contribution provided by the state with respect to each
30 excluded employee, as defined in subdivision (b) of Section 3527,
31 who lives in a rural area and is otherwise eligible, shall be an
32 amount equal to, but not to exceed, the amount contributed
33 pursuant to paragraph (1).

34 (3) The contribution provided by the state with respect to each
35 state annuitant who lives in a rural area, is not a Medicare
36 participant, resides in California, and is otherwise eligible, shall be
37 an amount not to exceed five hundred dollars (\$500) per year.

38 (4) The contribution provided by the state with respect to each
39 state annuitant who lives in a rural area, resides in California,
40 participates in a supplement Medicare health benefit plan, and is

1 otherwise eligible, shall be an amount equal to the Medicare Part
2 B premiums incurred by the annuitant, not to exceed seventy-five
3 dollars (\$75) per month. The program may not reimburse for
4 penalty amounts.

5 (5) If an employee enters or leaves service with the state during
6 a fiscal year, contributions for the employee shall be made on a pro
7 rata basis. A similar computation shall be used for anyone entering
8 or leaving the bargaining unit, including a person who enters the
9 bargaining unit by promotion during a fiscal year.

10 (d) Each fund of the State Treasury, other than the General
11 Fund, shall reimburse the General Fund for any sums allocated
12 pursuant to subdivision (c) for employees whose compensation is
13 paid from that fund. That reimbursement shall be accomplished
14 using the following methodology:

15 (1) On or before December 1 of each year, the Department of
16 Personnel Administration shall provide a list of active state
17 employees who participated in the program during the previous
18 fiscal year to each employing department.

19 (2) On or before January 15 of each year, each department that
20 employed an active state employee identified by the Department
21 of Personnel Administration as a participant in the program shall
22 provide the Department of Personnel Administration with a list of
23 the funds used to pay each employee's salary, along with the
24 proportion of each employee's salary attributable to each fund.

25 (3) Using the information provided by the employing
26 departments, the Department of Personnel Administration shall
27 compile a list of program payments attributable to each fund. On
28 or before February 15 of each year, the Department of Personnel
29 Administration shall transmit this list to the Department of
30 Finance.

31 (4) The Department of Finance shall certify to the Controller
32 the amount to be transferred from the unencumbered balance of
33 each fund to the General Fund.

34 (5) The Controller shall transfer to the General Fund from the
35 unencumbered balance of each impacted fund the amount
36 specified by the Department of Finance.

37 (6) To ensure the equitable allocation of costs, the Director of
38 the Department of Personnel Administration or the Director of
39 Finance may require an audit of departmental reports.

(e) For any sums allocated pursuant to subdivision (c) for annuitants, funds, other than the General Fund, shall be charged a fair share of the contribution provided by the state in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3. On or before July 31 of each year, the Department of Personnel Administration shall provide the Department of Finance with the total costs allocated for annuitants in the previous fiscal year. The reported costs may not include expenses that have been incurred but not claimed as of July 31.

(f) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible employees. The disbursements shall subsidize the preferred provider plan premiums for the employee by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under this part, and reimburse the employee for a portion or all of his or her incurred deductible, coinsurance, and other out-of-pocket health-related expenses that would otherwise be covered if the employee and his or her family members were enrolled in a board-approved health maintenance organization plan. These subsidies and reimbursements shall be provided as determined by the Department of Personnel Administration, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(g) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible annuitants. The disbursements shall either reimburse the annuitant, if not a Medicare participant, for some or all of the deductible incurred by the annuitant or a family member, not to exceed five hundred dollars (\$500) per fiscal year, or reimburse the annuitant, if a Medicare participant, for Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five dollars (\$75) per month. The program may not reimburse for penalty amounts. These reimbursements shall be provided by the Department of Personnel Administration. Notwithstanding any other provision of law, any annuitant who cannot be located within a period of three months and whose

1 disbursement is returned to the Controller as unclaimed is
2 ineligible to participate in the program.

3 (h) Moneys remaining in an account of the program at the end
4 of any fiscal year shall remain in the account for use in subsequent
5 fiscal years, until the account is terminated. Moneys remaining in
6 a program account upon termination, after payment of all expenses
7 and claims incurred prior to the date of termination, shall be
8 deposited in the General Fund.

9 (i) The Legislature finds and declares that the program is
10 established for the exclusive benefit of employees, annuitants, and
11 family members.

12 ~~(j) The amendments made to this section by Chapter 228 of the~~
13 ~~Statutes of 2003, as further amended by S.B. 626 in the first year~~
14 ~~of the 2003-04 Regular Session, shall become operative on~~
15 ~~January 1, 2004. This~~

16 (j) *This section shall cease to be operative on January 1, 2005,*
17 *or on an earlier date if the board makes a formal determination that*
18 *health maintenance organization plans are no longer the most*
19 *cost-effective health benefit plans offered by the board.*

20 22878. A health benefit plan offered by the California
21 Association of Highway Patrolmen may rebate funds to
22 participants enrolled in the basic and Medicare health benefit plans
23 sponsored by the association, in order to ensure that participant
24 out-of-pocket costs remain at a reasonable and competitive level
25 as determined by the Board of Trustees of the California
26 Association of Highway Patrolmen Health Benefits Trust. The
27 payments shall be made from the special reserves of the health
28 benefits trust fund. The amount of funds shall be limited to the
29 portion of special reserves for that health benefit plan that is in
30 excess of the amount necessary to fund the risk up to the
31 reinsurance attachment level. Administrative costs incurred by the
32 state for the implementation of this section shall be reimbursed by
33 the health benefits trust from the same funds.

34 22879. (a) The board shall pay monthly to an employee or
35 annuitant who is enrolled in, or whose family member is enrolled
36 in, a Medicare health benefit plan under this part the amount of the
37 Medicare Part B premiums, exclusive of penalties, except as
38 provided in Section 22831. This payment may not exceed the
39 difference between the maximum employer contribution and the
40 amount contributed by the employer toward the cost of premiums

1 for the health benefit plan in which the employee or annuitant and
2 his or her family members are enrolled. No payment may be made
3 in any month if the difference is less than one dollar (\$1).

4 (b) This section shall be applicable only to state employees,
5 annuitants who retired while state employees, and the family
6 members of those persons.

7 (c) With respect to an annuitant, the board shall pay to the
8 annuitant the amount required by this section from the same source
9 from which his or her allowance is paid. Those amounts are hereby
10 appropriated monthly from the General Fund to reimburse the
11 board for those payments.

12 (d) There is hereby appropriated from the appropriate funds the
13 amounts required by this section to be paid to active state
14 employees.

15 22880. The contributions of each employee and annuitant
16 shall be withheld from the monthly salary or retirement allowance
17 payable to him or her.

18 The employer contribution required of the state, as provided by
19 Sections 22881 and 22883, for any month shall be charged to the
20 same fund used for payment of salaries and wages from which the
21 employee contribution is deducted.

22 The employer contribution required of the state on account of
23 each annuitant shall be payable from the funds appropriated for
24 that purpose.

25 22881. From the General Fund in the State Treasury, there is
26 hereby appropriated monthly the employer contribution required
27 of the state under Sections 22820, 22834, 22870, 22871, and
28 22885 for:

29 (a) All employees whose compensation is paid from the
30 General Fund.

31 (b) All employees whose compensation is paid from funds of,
32 or funds appropriated to, the California State University.

33 (c) All employees who are employed by the Department of
34 Education or the Department of Rehabilitation and whose
35 compensation is paid from the Vocational Education Federal
36 Fund, the Vocational Rehabilitation Federal Fund, or any other
37 fund received, in whole or in part, as a donation to the state under
38 restrictions preventing its use for such contributions.

(d) All employees whose compensation is paid from the Senate Contingent Fund, Assembly Contingent Fund, or the Contingent Fund of the Assembly and Senate.

(e) All annuitants.

22883. (a) Each fund in the State Treasury, other than the General Fund, shall be charged a fair share of the employer contribution for annuitants in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3.

(b) From each fund in the State Treasury, other than the General Fund, there is hereby appropriated monthly the employer contribution required under Sections 22870, 22871, and 22885 for all employees whose compensation is paid from that fund.

22885. (a) The state shall, in addition to the contributions required by Section 22870, contribute additional amounts necessary to provide funds for the administration of this part and for the establishment and continuation of the Public Employees' Contingency Reserve Fund.

(b) The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, as determined by the board and as adopted by the Legislature in an appropriate control section of the annual Budget Act, but may not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses, 2 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

(2) For the account within the Public Employees' Contingency Reserve Fund provided by subdivision (b) of Section 22910, 4 percent of the total of the contributions made by the employee or annuitant and by the state on behalf of the employee or annuitant for enrollment in a health benefit plan.

22887. An employer may require an employee or annuitant or his or her domestic partner to be financially responsible for any increased cost of covering the domestic partner that exceeds the employer contribution rate that otherwise would have been paid.

22887.5. Notwithstanding any other provision of law, this part may not be construed to extend any vested rights to a domestic

partner of an employee or annuitant, or be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this part.

22889. Any person or entity subject to the requirements of this chapter shall comply with the standards set forth in Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.

Article 8. Contracting Agency Contributions

22890. (a) The contracting agency and each employee or annuitant shall contribute a portion of the cost of providing the benefit coverage afforded under the health benefit plan approved or maintained by the board in which the employee or annuitant may be enrolled.

(b) An annuitant is entitled to only one employer contribution. If more than one annuitant is receiving an allowance as the survivor of the same employee or annuitant, there shall be only one employer contribution with respect to all such annuitants.

(c) The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him or her under the health benefit plan or plans in which he or she is enrolled less the portion thereof to be contributed by the employer. The employer contribution for each employee and annuitant shall commence on the effective date of enrollment.

22892. (a) The employer contribution of a contracting agency shall begin on the effective date of enrollment and shall be the amount fixed from time to time by resolution of the governing body of the agency. The resolution shall be filed with the board and the contribution amount shall be effective on the first day of the second month following the month in which the resolution is received by the system.

(b) (1) The employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the following:

(A) Prior to January 1, 2004, sixteen dollars (\$16) per month.

(B) During calendar year 2004, thirty-two dollars and twenty cents (\$32.20) per month.

1 (C) During calendar year 2005, forty-eight dollars and forty
2 cents (\$48.40) per month.

3 (D) During calendar year 2006, sixty-four dollars and sixty
4 cents (\$64.60) per month.

5 (E) During calendar year 2007, eighty dollars and eighty cents
6 (\$80.80) per month.

7 (F) During calendar year 2008, ninety-seven dollars (\$97) per
8 month.

9 (2) Commencing January 1, 2009, the employer contribution
10 shall be adjusted annually by the board to reflect any change in the
11 medical care component of the Consumer Price Index *and shall*
12 *be rounded to the nearest dollar.* A school employer shall
13 contribute the amount it contributed to a health benefit plan for its
14 employees at the time of its election to participate or the amount
15 otherwise specified in this subdivision, whichever is greater.

16 (c) A contracting agency may, notwithstanding the equal
17 contribution requirement of subdivision (b), establish a lesser
18 monthly employer contribution for annuitants than for employees,
19 provided that the monthly contribution for annuitants ~~equals is~~
20 ~~annually increased by an amount not less than the number of years~~
21 ~~that the contracting agency has been subject to this part multiplied~~
22 ~~by 5 percent of the current~~ monthly employer contribution for
23 employees, until the time that the employer contribution for
24 annuitants equals the employer contribution paid for employees.
25 This subdivision shall only apply to agencies that first become
26 subject to this part on or after January 1, 1986.

27 22893. (a) Notwithstanding Section 22892, the percentage
28 of employer contribution payable for postretirement health
29 benefits for an employee of a contracting agency subject to this
30 section shall, except as provided in subdivision (b), be based on the
31 member's completed years of credited state service at retirement
32 as shown in the following table:

34 Credited Years	Percentage of Employer
35 of Service	Contribution
36 10	50
37 11	55
38 12	60
39 13	65
40 14	70

1	15	75
2	16	80
3	17	85
4	18	90
5	19	95
6	20 or more	100

7

8 This subdivision shall apply only to employees who retire for
9 service and are first employed after this section becomes
10 applicable to their employer, except as otherwise provided in
11 paragraph (6). The application of this subdivision shall be subject
12 to the following provisions:

13 (1) The employer contribution with respect to each annuitant
14 shall be adjusted by the employer each year. Those adjustments
15 shall be based upon the principle that the employer contribution for
16 each annuitant may not be less than the amount equal to 100
17 percent of the weighted average of the health benefit plan
18 premiums for an employee or annuitant enrolled for self-alone,
19 during the benefit year to which the formula is applied, for the four
20 health benefit plans that had the largest state enrollment, excluding
21 family members, during the previous benefit year. For each
22 annuitant with enrolled family members, the employer shall
23 contribute an additional 90 percent of the weighted average of the
24 additional premiums required for enrollment of those family
25 members, during the benefit year to which the formula is applied,
26 in the four health benefit plans that had the largest state enrollment,
27 excluding family members, during the previous benefit year. Only
28 the enrollment of, and premiums paid by, state employees and
29 annuitants enrolled in basic health ~~benefits~~ *benefit* plans shall be
30 counted for purposes of calculating the employer contribution
31 under this section.

32 (2) The employer shall have, in the case of employees
33 represented by a bargaining unit, reached an agreement with that
34 bargaining unit to be subject to this section.

35 (3) The employer shall certify to the board, in the case of
36 employees not represented by a bargaining unit, that there is not
37 an applicable memorandum of understanding.

38 (4) The credited service of an employee for the purpose of
39 determining the percentage of employer contributions applicable
40 under this section shall mean state service as defined in Section



1 20069, except that at least five years of service shall have been
2 performed entirely with that employer.

3 (5) The employer shall provide the board any information
4 requested that the board determines is necessary to implement this
5 section.

6 (6) The employer may, once each year without discrimination,
7 allow all employees who were first employed before this section
8 became applicable to the employer to individually elect to be
9 subject to the provisions of this section, and the employer shall
10 notify the board which employees have made that election.

11 (b) Notwithstanding subdivision (a), the contribution payable
12 by an employer subject to this section shall be equal to 100 percent
13 of the amount established pursuant to paragraph (1) of subdivision
14 (a) on behalf of any annuitant who either:

15 (1) Retired for disability.

16 (2) Retired for service with 20 or more years of service credit
17 entirely with that employer, regardless of the number of days after
18 separation from employment. The contribution payable by an
19 employer under this paragraph shall be paid only if it is greater
20 than, and made in lieu of, a contribution payable to the annuitant
21 by another employer under this part. The board shall establish
22 application procedures and eligibility criteria to implement this
23 paragraph.

24 (c) This section does not apply to any contracting agency, its
25 employees, or annuitants unless and until the agency files with the
26 board a resolution of its governing body electing to be so subject.
27 The resolution shall be adopted by a majority vote of the governing
28 body and shall be effective at the time provided in board
29 regulations.

30 22895. (a) Notwithstanding any other provision of this part,
31 a school employer, the employees' exclusive representative, and
32 unrepresented employees may agree that the employer
33 contribution for postretirement health coverage shall be subject to
34 the following:

35 (1) Credited years of service that the employee worked with the
36 contracting agency.

37 (2) A memorandum of understanding regarding postretirement
38 health coverage mutually agreed upon through collective
39 bargaining. This issue may not be subject to the impasse



1 procedures set forth in Article 9 (commencing with Section 3548)
2 of Chapter 10.7 of Division 4 of Title 1.

3 (b) No agreement reached pursuant to subdivision (a) shall be
4 valid if it imposes separate postretirement health coverage vesting
5 requirements on employees in the same category and doing similar
6 job duties.

7 (c) This section is not applicable to any employee who retired
8 before the effective date of the memorandum of understanding. In
9 the event that the memorandum of understanding establishes a
10 retroactive effective date, this section applies only prospectively
11 and any employee who retires before the memorandum of
12 understanding is signed may not be affected by it.

13 (d) No agreement reached pursuant to subdivision (a) shall be
14 valid if it provides an employer contribution for employees with
15 less than five years of credited service with the school employer.

16 (e) The contracting agency shall provide, in the manner
17 prescribed by the board, a notification of the agreement
18 established pursuant to this section and any additional information
19 necessary to implement this section.

20 22897. (a) Notwithstanding any other provision of this part,
21 a contracting agency and the employees' exclusive representative
22 may agree that the employer contribution for postretirement health
23 benefit coverage for an employee subject to this section shall be
24 based on the employee's completed years of service credited with
25 the contracting agency at retirement, with the contracting agency
26 paying no employer contribution for the first 15 years of that
27 credited service and paying 100 percent of the employer
28 contribution for employees with credited service of 15 years or
29 more.

30 This section applies only to the North Orange County
31 Community College District and the Riverside County
32 Superintendent of Schools, only with regard to the employees of
33 those agencies who are first hired on or after July 1, 1993.

34 (b) An agreement entered into pursuant to subdivision (a) shall
35 provide that the employer contribution for a part-time employee,
36 with 20 years or more of credited service with the contracting
37 agency, shall be 100 percent of the employer contribution.

38 22899. (a) The contributions required of a contracting
39 agency, along with contributions withheld from salaries of its
40 employees, shall be forwarded monthly, no later than the 10th day

1 of the month for which the contribution is due. The contributions
2 shall be credited to the Public Employees' Contingency Reserve
3 Fund as specified by Section 22910.

4 (b) A county superintendent of schools shall draw requisitions
5 against the county school service fund and the funds of the
6 respective school districts for the amount equal to the total of the
7 employer contributions and the employee contributions deducted
8 from compensation paid from those funds. The amounts shall be
9 deposited in the county treasury to the credit of the contract
10 retirement fund established pursuant to Section 20617. The county
11 superintendent thereafter shall draw his or her requisitions against
12 the fund in favor of the board which, when allowed by the county
13 auditor, shall constitute warrants against the fund and shall
14 forward the warrants to the board in accordance with this section.

15 (c) If a contracting agency fails to remit the contributions when
16 due, the agency may be assessed interest at an annual rate of 10
17 percent and the costs of collection, including reasonable legal fees,
18 when necessary to collect the amounts due. In the case of repeated
19 delinquencies, the contracting agency may be assessed a penalty
20 of 10 percent of the delinquent amount. That penalty may be
21 assessed once during each 30-day period that the amount remains
22 unpaid. Additionally, the contracting agency may be required to
23 deposit one-month's premium as a condition of continued
24 participation in the program.

25 22901. Each contracting agency shall contribute to the Public
26 Employees' Contingency Reserve Fund, an amount sufficient to
27 bear all of the administrative costs incurred by the board in
28 providing to the employees and annuitants of that agency the
29 health benefits provided by this part. The amount of the
30 contributions required by this section shall be determined by the
31 board and may include an appropriate share of overhead costs of
32 the program. A contracting agency shall, in addition, contribute to
33 the fund for each of its employees and annuitants the same amount
34 as is required of the state under paragraph (2) of subdivision (b) of
35 Section 22885.

36 22903. An employer may require an employee or annuitant or
37 his or her domestic partner to be financially responsible for any
38 increased cost of covering the domestic partner that exceeds the
39 employer contribution rate that otherwise would have been paid.

1 22903.5. Notwithstanding any other provision of law, this
2 part may not be construed to extend any vested rights to a domestic
3 partner of an employee or annuitant, or be construed to limit the
4 right of the Legislature to subsequently modify or repeal any
5 provision of this part.

6 22905. Any person or entity subject to the requirements of this
7 chapter shall comply with the standards set forth in Chapter 7
8 (commencing with Section 3750) of Part 1 of Division 9 of the
9 Family Code and Section 14124.94 of the Welfare and Institutions
10 Code.

11
12 Article 9. Maintenance of Funds
13

14 22910. (a) There shall be maintained in the State Treasury the
15 Public Employees' Contingency Reserve Fund. The board may
16 invest funds in the Public Employees' Contingency Reserve Fund
17 in accordance with the provisions of law governing its investment
18 of the retirement fund.

19 (b) (1) An account shall be maintained within the Public
20 Employees' Contingency Reserve Fund with respect to the health
21 benefit plans the board has approved or that have entered into a
22 contract with the board. The account shall be credited, from time
23 to time and in amounts as determined by the board, with moneys
24 contributed under Section 22885 or 22901 to provide an adequate
25 contingency reserve. The income derived from any dividends, rate
26 adjustments, or other funds received from a health benefit plan
27 shall be credited to the account. The board may deposit, in the same
28 manner as provided in paragraph (3), up to one-half of one percent
29 of premiums in the account for purposes of cost containment
30 programs, subject to approval as provided in paragraph (2) of
31 subdivision (c).

32 The account may be utilized to defray increases in future rates,
33 to reduce the contributions of employees and annuitants and
34 employers, to implement cost containment programs, or to
35 increase the benefits provided by a health benefit plan, as
36 determined by the board. *The board may use penalties and interest*
37 *deposited pursuant to subdivision (c) of Section 22899 to pay any*
38 *difference between the adjusted rate set by the board pursuant to*
39 *Section 22864 and the applicable health benefit plan contract*
40 *rates.*

(2) The total credited to the account for health benefit plans at any time shall be limited, in the manner and to the extent the board may find to be most practical, to a maximum of 10 percent of the total of the contributions of the employers and employees and annuitants in any fiscal year. The board may undertake any action to ensure that the maximum amount prescribed for the fund is approximately maintained.

(3) Board rules and regulations adopted pursuant to Section 22831 to minimize the impact of adverse selection or contracts entered into pursuant to Section 22864 to implement health benefit plan performance incentives may provide for deposit in and disbursement to carriers or to Medicare from the account the portion of the contributions otherwise payable directly to the carriers by the Controller under Section 22913 as may be required for that purpose. The deposits may not be included in applying the limitations, prescribed in paragraph (2), on total amounts that may be deposited in or credited to the fund.

(4) Notwithstanding Section 13340, all moneys in the account for health benefit plans are continuously appropriated without regard to fiscal year for the purposes provided in this subdivision.

(c) (1) An account shall also be maintained in the Public Employees' Contingency Reserve Fund for administrative expenses consisting of funds deposited for this purpose pursuant to Sections 22885 and 22901.

(2) The moneys deposited pursuant to Sections 22885 and 22901 in the Public Employees' Contingency Reserve Fund may be expended by the board for administrative purposes, provided that the expenditure is approved by the Department of Finance and the Joint Legislative Budget Committee in the manner provided in the Budget Act for obtaining authorization to expend at rates requiring a deficiency appropriation, regardless of whether the expenses were anticipated.

(d) An account shall be maintained in the Public Employees' Contingency Reserve Fund for health plan premiums paid by ~~public agencies~~ *contracting agencies, including payments made pursuant to subdivision (f) of Section 22850*. Notwithstanding Section 13340, the funds are continuously appropriated, without regard to fiscal year, for the payment of premiums or other charges to carriers or the Public Employees' Health Care Fund. Penalties and interest paid pursuant to subdivision (c) of Section 22899 shall

1 be deposited in the account for ~~administrative expenses as~~
2 ~~provided for by~~ pursuant to paragraph (1) of subdivision ~~(e)~~ (b).

3 (e) Accounts shall be maintained in the Public Employees'
4 Contingency Reserve Fund for complementary annuitant
5 premiums and related administrative expenses paid by annuitants
6 pursuant to Section 22802. Notwithstanding Section 13340, the
7 funds are continuously appropriated, without regard to fiscal year,
8 to reimburse the Public Employees' Retirement Fund for payment
9 of annuitant health premiums, and for the payment of premiums
10 and other charges to carriers or to the Public Employees' Health
11 Care Fund. Administrative expenses deposited in this account
12 shall be credited to the account provided by subdivision (c).

13 22911. (a) There shall be maintained in the State Treasury the
14 Public Employees' Health Care Fund to fund the health benefit
15 plans administered or approved by the board. The board may
16 invest funds in the Public Employees' Health Care Fund in
17 accordance with the provisions of law governing its investment of
18 the retirement fund.

19 (b) The Public Employees' Health Care Fund shall consist of
20 the following:

21 (1) Any self-funded or minimum premium plan premiums paid
22 by contracting agencies, the state and enrolled employees,
23 annuitants, and family members, including premiums paid
24 directly for continuation coverage authorized under the
25 Consolidated Omnibus Budget Reconciliation Act, and as
26 authorized by this part.

27 (2) Any reserve moneys from terminated health benefit plans
28 designated by the board.

29 (c) Income earned on the Public Employees' Health Care Fund
30 shall be credited to the fund.

31 (d) Notwithstanding Section 13340, the Public Employees'
32 Health Care Fund is continuously appropriated, without regard to
33 fiscal years, to pay benefits and claims costs, the costs of
34 administering self-funded or minimum premium health benefit
35 plans, refunds to those who made direct premium payments, and
36 other costs as the board may determine necessary, consistent with
37 its fiduciary duty.

38 (e) The Legislature finds and declares that the Public
39 Employees' Health Care Fund is a trust fund held for the exclusive
40 benefit of enrolled employees, annuitants, family members, the

1 self-funded plan administrator, and those contracting to provide
2 medical and hospital care services.

3 22913. (a) Contributions of employees, annuitants, and
4 employers not credited to the Public Employees' Contingency
5 Reserve Fund for purposes specified in Section 22885 or 22901
6 shall be utilized to pay the premiums or other charges to carriers
7 or to the Public Employees' Health Care Fund.

8 (b) The Controller shall suitably identify and remit the state's
9 contribution for each employee or annuitant monthly to the Public
10 Employees' Health Care Fund or to the carriers, together with
11 amounts authorized by the employees and annuitants to be
12 deducted from their salaries or retirement allowances for payment
13 of the employee contribution.

14 (c) The contributions of employees and annuitants of
15 contracting agencies and the contributions of contracting agency
16 employers shall be suitably identified and remitted monthly to the
17 carriers by warrant of the Controller upon claims filed by the
18 board.

19 22915. There is in the State Treasury the State Annuitants'
20 Vision Care Benefits Fund that is, upon appropriation by the
21 Legislature, available to the board for expenditure solely for the
22 provision of vision care benefits to state annuitants pursuant to this
23 part.

24

25 Article 10. Contracting with Public Agencies

26

27 22920. The following entities are eligible to become subject
28 to this part:

29 (a) A contracting agency, as defined in Section 20022, a county
30 or special district subject to the County Employees Retirement
31 Law of 1937 (Chapter 3 (commencing with Section 31450) of Part
32 3 of Division 4 of Title 3), and a school employer.

33 (b) A public body or agency of or within the state that is not
34 subject to Part 3 (commencing with Section 20000) of the
35 Government Code or the County Employees Retirement Law of
36 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of
37 Division 4 of Title 3), and that provides a retirement system for its
38 employees funded wholly or in part by public funds.

39 (c) The protection and advocacy agency described in
40 subdivision (h) of Section 4900 of the Welfare and Institutions



1 Code, if the agency obtains a written advisory opinion from the
2 United States Department of Labor stating that the organization is
3 an agency or instrumentality of the state or a political subdivision
4 thereof within the meaning of Chapter 18 (commencing with
5 Section 1001) of Title 29 of the United States Code.

6 22922. (a) A contracting agency and its employees and
7 annuitants shall be subject to this part upon filing with the board
8 a resolution of its governing body electing to be so subject. The
9 resolution shall be adopted by a majority vote and shall be effective
10 at the time provided in board regulations.

11 (b) A contracting agency may become subject to this part with
12 respect to a recognized employee organization. The resolution
13 filed with respect to a ~~the~~ contracting agency pursuant to
14 subdivision (a) shall specify the recognized employee
15 organizations to which the resolution applies.

16 (c) *Pursuant to Section 22796 and subdivision (g) of Section*
17 *22934, the board may by regulation require any contracting*
18 *agency that elects to become subject to this part to meet certain*
19 *board-determined criteria, including, but not limited to,*
20 *additional requirements for any contracting agency that elects to*
21 *become subject to this part that previously terminated coverage*
22 *pursuant to Section 22938.*

23 22927. Notwithstanding any other provision of this part, a
24 contracting agency that is a city and county shall be subject to this
25 part only with respect to employees who upon entering city and
26 county employment from state employment had an option under
27 state statutes to continue enrollment under this part.

28 22928. When a hospital becomes a contracting agency
29 pursuant to subdivision (p) of Section 20057, its employees shall
30 be deemed city employees for purposes of this part until the
31 hospital enacts its own resolution or acts officially to terminate its
32 participation under this part.

33 22929. (a) A contracting agency may, at its option, offer
34 health benefits pursuant to this part, to the domestic partners of its
35 employees and annuitants.

36 (b) The contracting agency shall notify the board, in the
37 manner prescribed, that it is electing to provide health coverage
38 through this part to the domestic partners of its employees and
39 annuitants.

1 (c) The contracting agency shall provide any information
2 deemed necessary by the board to determine eligibility under this
3 part.

4 22930. If the board administers a specialized health benefit
5 plan, it may offer coverage in the specialized health benefit plan
6 to a contracting agency that also provides coverage for its
7 employees in a health benefit plan under this part.

8 22931. Annuitants that receive benefits under this part and are
9 former certificated employees that retired from a school employer,
10 including the spouses and surviving spouses, are not subject to
11 Article 1 (commencing with Section 7000) of Chapter 1 of Part 5
12 of Division 1 of the Education Code. The school employer is also
13 not subject to Article 1 (commencing with Section 7000) of
14 Chapter 1 of Part 5 of Division 1 of the Education Code with
15 respect to those annuitants.

16 22932. A contracting agency shall perform the functions
17 necessary to enroll its employees and submit reports as may be
18 required by the board. A county superintendent of schools shall
19 have the responsibility of providing all information concerning the
20 school districts within his or her jurisdiction to the board.

21 22934. (a) A contracting agency that has elected to be subject
22 to this part may not maintain any other health benefit plan or
23 program offering hospital and medical care for its employees.

24 (b) Notwithstanding subdivision (a), a plan operating on July
25 1, 2002, shall be permitted to continue as long as it meets the
26 requirements of subdivision (e). A material change in the plan,
27 including a change in carriers, shall be permitted. Notwithstanding
28 any other provision of this part, a contracting agency may include
29 a dependent of an employee or retiree who is not eligible for
30 coverage as a family member or a domestic partner, as provided
31 in this part, if the employee or retiree is also enrolled in the
32 alternative plan.

33 (c) Notwithstanding subdivision (a), a self-insured plan
34 operating on January 1, 2003, shall be permitted to continue as
35 long as it meets the requirements of subdivision (e). The board
36 may extend the deadline contained in this subdivision for good
37 cause.

38 (d) Notwithstanding subdivision (a), an alternative plan
39 established by a contracting agency and approved by the board
40 after July 1, 2002, shall be permitted to continue until December

31, 2004. The plan may only be offered in an area in which there is no board-approved health maintenance organization or exclusive provider organization plan available for enrollment, or there is only one board-approved health maintenance organization plan available for enrollment, and that plan has less than 55 percent of the primary care physicians in its provider network available for new patients. The contracting agency shall reimburse the board for reasonable administrative expenses incurred as a result of enrollment activities outside of the system's open enrollment period caused by the creation or termination of a plan offered pursuant to this subdivision. A contracting agency providing a plan pursuant to this subdivision shall notify the board by June 1, 2004, of its intent to either terminate that plan or to terminate its participation under this part as of January 1, 2005. On or after June 1, 2004, the board may extend the termination date contained in this subdivision for a contracting agency at its discretion, based on compelling circumstances in the region in which the contracting agency is located.

(e) A plan maintained pursuant to this section shall meet and maintain the minimum standards for approved health benefit plans prescribed by the board pursuant to the requirements of this part.

(f) An election of a contracting agency to be subject to this part is not effective prior to the termination of any health benefit plan maintained in violation of this section. The establishment of any plan thereafter in violation of this section shall terminate participation of the agency and all of its employees under this part as of the end of the contract year.

(g) Nothing in this part may be construed to prohibit a contracting agency from offering health plans, including collectively bargained union health and welfare trust plans, to employees and annuitants of employee groups, including collective bargaining units, if the contracting agency has not elected to provide coverage for that group under this part.

22937. A contracting agency may elect, by amending its contract with the board, to participate in a Medicare reimbursement program for its employees, annuitants, or family members who are enrolled in a Medicare health benefit plan under this part, as prescribed by board regulations.

22938. A contracting agency that has elected to be subject to this part may elect to cease to be so subject by resolution adopted

1 by a majority vote of its governing body and filed with the board
2 on or before the deadline provided in board regulations, to be
3 effective at the end of the current contract year. Coverage of
4 employees and annuitants of the contracting agency shall also
5 terminate at the end of the current contract year.

6 22939. The board may terminate the participation of a
7 contracting agency if it fails for three months after a demand to
8 perform any act required by this part or by board rules or
9 regulations.

10
11 Article 11. Prefunding Plan for Health Care Coverage for
12 Annuitants
13

14 22940. There is in the State Treasury the Annuitants' Health
15 Care Coverage Fund that is a trust fund and a retirement fund,
16 within the meaning of Section 17 of Article XVI of the California
17 Constitution, that is continuously appropriated without regard to
18 fiscal years to the board for expenditure for the prefunding of
19 health care coverage for annuitants pursuant to this part, including
20 administrative costs. The board has sole and exclusive control and
21 power over the administration and investment of the Annuitants'
22 Health Care Coverage Fund and shall make investments pursuant
23 to Part 3 (commencing with Section 20000).

24 22942. An employer may elect to participate in the
25 prefunding plan established by this article.

26 22944. The board shall annually determine the rate of
27 contribution for the following fiscal year for each employer
28 providing benefits pursuant to this part, regardless of whether the
29 employer participates pursuant to this article, and shall annually
30 transmit to each employer its contribution rate for the following
31 fiscal year which would fully fund its obligation under this article.

32
33 CHAPTER 2. RECOVERY OF MEDICAL COSTS
34

35 22945. (a) The purpose of this chapter is to establish the
36 rights of the California Association of Highway Patrolmen Health
37 Benefits Trust, the Peace Officers Research Association of
38 California Health Benefits Trust, and the California Correctional
39 Peace Officer Association Health Benefits Trust to recover

1 medical costs paid to a participant for injuries, including injuries
2 that result in death, caused by or allegedly caused by a third party.

3 (b) This chapter does not apply if the participant is injured in
4 the course and scope of his or her employment. In those cases,
5 Chapter 5 (commencing with Section 3850) of Part 1 of Division
6 4 of the Labor Code governs.

7 22946. As used in this chapter:

8 (a) “Health benefits trust” means the California Association of
9 Highway Patrolmen Health Benefits Trust, the Peace Officers
10 Research Association of California Health Benefits Trust, the
11 California Correctional Peace Officers Association Health
12 Benefits Trust, or a self-funded plan administered by the board
13 under this part.

14 (b) “Participant” means an employee, annuitant, or family
15 member who is a member of a health benefits trust and who is
16 injured by, or due to the actions or inactions of, a third person, and
17 includes any other person to whom a claim accrues by reason of
18 the injury or death of the employee, annuitant, or family member.

19 (c) “Third party” means any tortfeasor or alleged tortfeasor
20 against whom the participant asserts a claim for injury or death.

21 22947. (a) A health benefits trust may assert a lien for health
22 benefits paid on behalf of a participant against any settlement with,
23 or arbitration award or judgment against, a third party. No lien
24 asserted by a health benefits trust under this section may exceed the
25 amount actually paid by the trust to any treating medical provider.

26 (b) The participant, if not represented by an attorney, or the
27 participant’s attorney, shall immediately send, by certified mail,
28 written notice of the existence of any claim or action against a third
29 party, to the following:

30 (1) The health benefits trust.

31 (2) A hospital or any hospital-affiliated health facility, as
32 defined in Section 1250 of the Health and Safety Code, that is
33 known to have provided health care services to the participant.

34 (c) If medical costs are paid by the health benefits trust,
35 contract providers may not assert an independent lien against the
36 participant. Contract providers who agree, by contract, to a
37 specified rate may not seek to recover an amount that exceeds the
38 contracted rate against the participant.

1 This subdivision is not applicable to a lien for hospital services
2 pursuant to Chapter 4 (commencing with Section 3045.1) of Title
3 14 of Part 4 of Division 3 of the Civil Code.

4 (d) If the participant engaged an attorney, the lien for health
5 services asserted by a health benefits trust under subdivision (a)
6 may not exceed the lesser of the actual amount paid by the trust or
7 one-third of the moneys due to the participant under any final
8 judgment, compromise, arbitration, or settlement agreement.

9 (e) If the participant did not engage an attorney, the lien for
10 health services asserted by the health benefits trust under
11 subdivision (a) may not exceed the lesser of the actual amount paid
12 by the trust or one-half of the moneys due to the participant under
13 any final judgment, compromise, arbitration, or settlement
14 agreement.

15 (f) If a final judgment includes a special finding by a judge,
16 jury, or arbitrator that the participant was partially at fault, the lien
17 asserted by the health benefits trust shall be reduced by the same
18 comparative fault percentage by which the participant's recovery
19 was reduced.

20 (g) The lien asserted by the health benefits trust shall be subject
21 to pro rata reduction, commensurate with the participant's
22 reasonable attorney's fees and costs, in accordance with the
23 common fund doctrine.

24 (h) The court or arbitrator may also take into account the
25 obligation, if any, of the health benefits trust to make future
26 medical payments on behalf of the participant for the medical
27 condition that gave rise to the claim against the third party.

28 (i) The provisions of this section may not be admitted into
29 evidence nor given in any instruction in any civil action or
30 proceeding between a participant and a third party.

31 22948. (a) A court or arbitrator having jurisdiction over a
32 claim by a participant against a third party shall additionally have
33 jurisdiction over apportionment of any recovery on the claim, if
34 the participant and the health benefits trust or any other party
35 asserting a lien cannot agree on an allocation.

36 (b) In the event of a settlement between the participant and the
37 third party where there is no agreement on proper apportionment
38 of the settlement between the participant and the health benefits
39 trust or any other party asserting a lien, the participant may petition
40 the court for a determination in accordance with this section. The

parties may introduce evidence with respect to the issue of apportionment in any manner authorized by the Evidence Code, including, but not limited to, introduction by sworn declaration or by relevant discovery responses. The participant shall make available to the health benefits trust all relevant discovery in a reasonable and timely manner. The use of witness testimony shall be discouraged and shall be allowed only by stipulation of the parties.

(c) In the event of a judgment where there is no agreement on proper apportionment of the judgment between the participant and the health benefits trust or any other party asserting a lien, the participant may file a post-trial motion asking the court to apportion the judgment in accordance with this section.

~~SEC. 24.~~

SEC. 23. Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code is repealed.

~~SEC. 25.~~

SEC. 24. Part 6 (commencing with Section 22950) of Division 5 of Title 2 of the Government Code is repealed.

~~SEC. 26.~~

SEC. 25. Part 6 (commencing with Section 22950) is added to Division 5 of Title 2 of the Government Code, to read:

PART 6. STATE EMPLOYEES' DENTAL CARE ACT

22950. This part may be cited as the State Employees' Dental Care Act.

22951. It is the purpose of this part to do all of the following:

(a) Promote increased economy and efficiency in the state service.

(b) Enable the state to attract and retain qualified employees by providing dental care plans similar to those commonly provided in private industry.

(c) Recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

22952. Unless otherwise indicated, the definition of terms in Part 5 (commencing with Section 22750) apply to this part.

22953. (a) The state, through the Department of Personnel Administration, the Trustees of the California State University, or

1 the Regents of the University of California may contract, upon
2 negotiations with employee organizations, with carriers for dental
3 care plans for employees, annuitants, and eligible family
4 members, provided the carriers have operated successfully in the
5 area of dental care benefits for a reasonable period or have a
6 contract to provide a health benefit plan pursuant to Section 22850.
7 The dental care plans may include a portion of the monthly
8 premium to be paid by the employee or annuitant. Dental care
9 plans provided under this authority may be self-funded by the
10 employer if it is determined to be cost-effective.

11 (b) An employee or annuitant may enroll in a dental care plan
12 provided by a carrier that also provides a health benefit plan
13 pursuant to Section 22850 if the employee or annuitant is also
14 enrolled in the health benefit plan provided by that carrier.
15 However, nothing in this section may be construed to require an
16 employee or annuitant to enroll in a dental care plan and a health
17 benefit plan provided by the same carrier.

18 (c) No contract for a dental care plan may be entered into unless
19 funds are appropriated by the Legislature in a subsequently
20 enacted statute. If a dental care plan is self-funded, funds used for
21 that plan shall be considered continuously appropriated,
22 notwithstanding Section 13340.

23 22954. Funds appropriated for self-funded dental care plans
24 for state employees, other than employees of the California State
25 University, shall be maintained in the State Employees' Dental
26 Care Fund which is hereby created in the State Treasury. Moneys
27 in this fund shall be used by the Department of Personnel
28 Administration to pay dental claims and other administrative
29 costs. Income earned on the moneys in the State Employees'
30 Dental Care Fund shall be credited to the fund. Moneys in this fund
31 are continuously appropriated in accordance with this section and
32 Section 22953.

33 22955. Funds appropriated for self-funded dental care plans
34 for employees of the California State University shall be
35 maintained in the California State University Employees' Dental
36 Care Fund, which is hereby created in the State Treasury. Moneys
37 in this fund shall be used by the Trustees of the California State
38 University to pay dental claims and other administrative costs.
39 Income earned on the moneys in the California State University
40 Employees' Dental Care Fund shall be credited to the fund.



1 Moneys in this fund are continuously appropriated in accordance
2 with this section and Section 22953.

3 22956. (a) An annuitant who retires from the state may enroll
4 in a dental care plan offered under this part, provided either of the
5 following apply:

6 (1) The annuitant is not enrolled in a health benefit plan or a
7 dental care plan, but was eligible for enrollment as an employee
8 at the time of separation for retirement, and who retired within 120
9 days of the date of separation.

10 (2) The annuitant is receiving an allowance pursuant to Article
11 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of
12 Division 2.

13 (b) The board has no duty to locate or notify any annuitant who
14 may be eligible to enroll, or to provide names or addresses to any
15 person, agency, or entity for the purpose of notifying those
16 annuitants.

17 22957. A person who was enrolled in a dental care plan at the
18 time he or she became an annuitant under state or federal
19 provisions, may continue his or her enrollment, including eligible
20 family members, without discrimination as to premium rates or
21 benefit coverage. The dental care plans may require part of a
22 monthly premium to be paid by the annuitant, not to exceed the
23 premium paid by represented or excluded employees, whichever
24 is less, for the state-sponsored indemnity dental plan. The
25 premium to be paid by the annuitant shall be deducted from his or
26 her monthly allowance.

27 22958. (a) Notwithstanding Sections 22953 and 22957, the
28 following employees may not receive any portion of the employer
29 contribution payable for annuitants, unless the person is credited
30 with 10 or more years of state service, as defined by this section,
31 at the time of retirement:

32 (1) A state employee, as defined by subdivision (c) of Section
33 3513, in State Bargaining Unit 5, 6, 8, or 16 who becomes a state
34 member of the system after January 1, 1999.

35 (2) A state employee, as defined by subdivision (c) of Section
36 3513, in State Bargaining Unit 19 who becomes a state member of
37 the system after July 1, 1998.

38 (3) A state employee, as defined by subdivision (c) of Section
39 3513, who becomes a state member of the system after January 1,

2000, and is a member of a state bargaining unit that has agreed to this section.

(4) A state employee who becomes a state member of the system after January 1, 2000, and is either excluded from the definition of a state employee in subdivision (c) of Section 3513, or a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(b) The percentage of the employer contribution payable for postretirement dental care benefits for an employee subject to this section shall be based on the funding provision of the plan and the completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section only applies to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For purposes of this section, “state service” means service rendered as an employee or an appointed or elected officer of the state for compensation.

(f) In those cases where the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency may not be credited as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state the amount actuarially

determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

(g) This section does not apply to employees of the California State University or the Legislature.

22959. The Department of Personnel Administration shall administer the benefits provided by this part for civil service employees and annuitants. The Trustees of the California State University shall administer the benefits provided by this part for employees and annuitants of the California State University.

~~SEC. 27.~~

SEC. 26. Section 26296.22 of the Government Code is amended to read:

26296.22. (a) Except as otherwise provided in subdivisions (b) and (c), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the commission in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the commission contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the commission, the commission need not establish any retirement benefits program for those employees.

~~SEC. 28.~~

SEC. 27. Section 26299.036 of the Government Code is amended to read:

1 26299.036. (a) Except as otherwise provided in subdivisions
2 (b) and (c), the agency shall enter into a contract with the Board
3 of Administration of the Public Employees' Retirement System,
4 and the board shall enter into that contract, to include all of the
5 employees of the agency in that retirement system, and the
6 employees shall be entitled to substantially similar health benefits
7 as are state employees pursuant to Part 5 (commencing with
8 Section 22750) of Division 5 of Title 2.

9 (b) For purposes of providing retirement benefits, the agency
10 may contract with the retirement system of which the employees
11 of the county are members, in lieu of contracting with the board.

12 (c) Notwithstanding subdivision (a) or (b), to the extent that the
13 agency contracts with the county or other agencies to utilize
14 employees of the county or other agencies as employees of the
15 agency, the agency need not establish any retirement benefits
16 program for those employees.

17 ~~SEC. 29.~~

18 *SEC. 28.* Section 73642 of the Government Code is amended
19 to read:

20 73642. (a) In addition to any other compensation and
21 benefits, each judge of the municipal court shall receive the same
22 life insurance, accidental death and dismemberment insurance,
23 comprehensive annual physical examinations, executive flexible
24 benefits plan, except that if deferred compensation is selected, no
25 adjustment based on retirement tier shall apply, and dental and
26 vision insurance as provided by the County of San Diego for the
27 classification of chief administrative officer. Changes in these
28 benefits shall be effective on the same date as those for the
29 classification of chief administrative officer.

30 (b) Subject to approval by the board of supervisors, each judge
31 of the municipal court shall receive one or more of the following
32 benefits: the same long-term disability insurance as provided by
33 the County of San Diego for the classification of chief
34 administrative officer or retiree health benefits whereby each
35 judge of the municipal court serving on or after October 1, 1987,
36 who retires from the municipal court on or after January 1, 1989,
37 shall receive the same amount of insurance premium for retiree
38 health benefits under the Public Employees' Medical and Hospital
39 Care Act (Part 5 (commencing with Section 22750) of Title 2) that
40 the state provides to retired superior court judges under that act.

~~SEC. 30.~~

SEC. 29. Section 73952 of the Government Code is amended to read:

73952. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

~~SEC. 31.~~

SEC. 30. Section 74342 of the Government Code is amended to read:

74342. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by

1 the County of San Diego for the classification of chief
2 administrative officer or retiree health benefits whereby each
3 judge of the municipal court serving on or after October 1, 1987,
4 who retires from the municipal court on or after January 1, 1989,
5 shall receive the same amount of insurance premium for retiree
6 health benefits under the Public Employees' Medical and Hospital
7 Care Act (Part 5 (commencing with Section 22750) of Title 2) that
8 the state provides to retired superior court judges under that act.

9 ~~SEC. 32.~~

10 *SEC. 31.* Section 74742 of the Government Code is amended
11 to read:

12 74742. (a) In addition to any other compensation and
13 benefits, each judge of the municipal court shall receive the same
14 life insurance, accidental death and dismemberment insurance,
15 comprehensive annual physical examinations, executive flexible
16 benefits plan, except that if deferred compensation is selected, no
17 adjustment based on retirement tier shall apply, and dental and
18 vision insurance as provided by the County of San Diego for the
19 classification of chief administrative officer. Changes in those
20 benefits shall be effective on the same date as for those for the
21 classification of chief administrative officer.

22 (b) Subject to approval by the board of supervisors, each judge
23 of the municipal court shall receive one or more of the following
24 benefits: the same long-term disability insurance as provided by
25 the County of San Diego for the classification of chief
26 administrative officer or retiree health benefits whereby each
27 judge of the municipal court serving on or after October 1, 1987,
28 who retires from the municipal court on or after January 1, 1989,
29 shall receive the same amount of insurance premium for retiree
30 health benefits under the Public Employees' Medical and Hospital
31 Care Act (Part 5 (commencing with Section 22750) of Title 2) that
32 the state provides to retired superior court judges under that act.

33 ~~SEC. 33.~~

34 *SEC. 32.* Section 75521 of the Government Code is amended
35 to read:

36 75521. (a) A judge who leaves judicial office before accruing
37 at least five years of service shall be paid the amount of his or her
38 contributions to the system, and no other amount.

39 (b) A judge who leaves judicial office after accruing five or
40 more years of service and who is not eligible to elect to retire under

Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are “retired judges” for purposes of a concurrent retirement with respect to the benefits provided under Section 20639 and assignment pursuant to Article 2 (commencing with Section 66540) of Chapter 2 and are eligible for benefits provided under Section 22814.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges’ Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees’ Retirement System under Section 20750 from the date of withdrawal to the date of payment.

~~SEC. 34.~~

SEC. 33. Section 124964 of the Health and Safety Code is amended to read:

124964. The standard health benefit package provided to the uninsured poor children and adults enrolled in the pilot program shall be the same as, or comparable to, the benefit packages available to the employees of those public agencies who have elected to have their employees participate in the Public Employees’ Medical and Hospital Care Act, Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

~~SEC. 35.~~

SEC. 34. Section 4856 of the Labor Code is amended to read:

4856. (a) Whenever any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is killed in the performance of his or her duty or dies as a result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty, the employer shall continue providing health benefits to the deceased employee’s spouse under the same terms and conditions provided prior to the death, or prior

1 to the accident or injury that caused the death, of the employee
2 unless the surviving spouse elects to receive a lump-sum survivors
3 benefit in lieu of monthly benefits. Minor dependents shall
4 continue to receive benefits under the coverage provided the
5 surviving spouse or, if there is no surviving spouse, until the age
6 of 21 years. However, pursuant to Section 22822 of the
7 Government Code, the surviving spouse may not add the new
8 spouse or stepchildren as family members under the continued
9 health benefits coverage of the surviving spouse.

10 (b) Subdivision (a) also applies to the employer of any local
11 employee who is a firefighter, or peace officer as described in
12 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of
13 the Penal Code, who was killed in the performance of his or her
14 duty or who died as a result of an accident or injury caused by
15 external violence or physical force incurred in the performance of
16 his or her duty prior to September 30, 1996.

17 ~~SEC. 36.~~

18 *SEC. 35.* Section 13600 of the Probate Code is amended to
19 read:

20 13600. (a) At any time after a husband or wife dies, the
21 surviving spouse or the guardian or conservator of the estate of the
22 surviving spouse may, without procuring letters of administration
23 or awaiting probate of the will, collect salary or other
24 compensation owed by an employer for personal services of the
25 deceased spouse, including compensation for unused vacation, not
26 in excess of five thousand dollars (\$5,000) net.

27 (b) Not more than five thousand dollars (\$5,000) net in the
28 aggregate may be collected by or for the surviving spouse under
29 this chapter from all of the employers of the decedent.

30 (c) For the purposes of this chapter, a guardian or conservator
31 of the estate of the surviving spouse may act on behalf of the
32 surviving spouse without authorization or approval of the court in
33 which the guardianship or conservatorship proceeding is pending.

34 (d) The five thousand dollar (\$5,000) net limitation set forth in
35 subdivisions (a) and (b) does not apply to the surviving spouse or
36 the guardian or conservator of the estate of the surviving spouse
37 of a firefighter or peace officer described in subdivision (a) of
38 Section 22820 of the Government Code.

39 (e) On January 1, 2003, and on January 1 of each year
40 thereafter, the maximum net amount of salary or compensation

payable under subdivisions (a) and (b) to the surviving spouse or the guardian or conservator of the estate of the surviving spouse may be adjusted to reflect any increase in the cost of living occurring after January 1 of the immediately preceding year. The United States city average of the “Consumer Price Index for all Urban Consumers,” as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made. The net amount payable may not be decreased as a result of the cost-of-living adjustment.

~~SEC. 37.~~

SEC. 36. Section 35137 of the Public Resources Code is amended to read:

35137. The authority may enter into a contract with the Board of Administration of the Public Employees’ Retirement System to include the employees of the authority in that retirement system who are eligible for membership therein, and the employees shall be entitled to the same benefits as state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

~~SEC. 38.~~

SEC. 37. Section 130109 of the Public Utilities Code is amended to read:

130109. (a) Except as otherwise provided in subdivision (b), the commission shall enter into a contract with the Board of Administration of the Public Employees’ Retirement System, and the board shall enter into that contract, to include all of the employees of the commission into that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system that the employees of the county in which the commission is located are members of in lieu of contracting with the board.

(c) Each person employed by the Orange County Transportation Commission on January 1, 1992, may, no later than February 1, 1992, elect to either remain a member of the Public Employees’ Retirement System or become a member of the

1 Orange County Employees Retirement System. All persons who
2 become employed by the commission after February 1, 1991, shall
3 be members of the Orange County Employees Retirement System.

4 ~~SEC. 39.~~

5 *SEC. 38.* Section 131269 of the Public Utilities Code is
6 amended to read:

7 131269. A county transportation authority may enter into a
8 contract with the Board of Administration of the Public
9 Employees' Retirement System, and the board may enter into the
10 contract to include all of the employees of the county
11 transportation authority in that retirement system. The employees
12 may be entitled to the same health benefits as are state employees
13 pursuant to Part 5 (commencing with Section 22750) of Division
14 5 of Title 2 of the Government Code or any other retirement system
15 that the authority determines is in the best interest of its employees.

16 ~~SEC. 40.~~

17 *SEC. 39.* Section 140109 of the Public Utilities Code is
18 amended to read:

19 140109. The authority shall enter into a contract with the
20 Board of Administration of the Public Employees' Retirement
21 System to include all of the employees of the commission into that
22 retirement system, and the employees shall be entitled to the same
23 health benefits as are state employees pursuant to Part 5
24 (commencing with Section 22750) of Division 5 of Title 2 of the
25 Government Code.

26 ~~SEC. 41.~~

27 *SEC. 40.* It is the intent of the Legislature in enacting this act
28 to reorganize the Public Employees' Medical and Hospital Care
29 Act and the State Employees' Dental Care Act. It is not the intent
30 of the Legislature to make any substantive change in the law. Thus,
31 if, in the opinion of any court or administrative officer, a different
32 result under any provision of Part 5 (commencing with Section
33 22751) of Division 5 of Title 2 of, or Part 6 (commencing with
34 Section 22950) of Division 5 of Title 2 of, the Government Code,
35 as it read on December 31, 2003, would occur because of the
36 enactment of this act, the provision as it read on ~~December 31,~~
37 ~~2003,~~ *the effective date of this act* shall be followed and the result
38 shall be as it would have been on ~~December 31, 2003~~ *that date*. It
39 is further the intent of the Legislature that no new or additional
40 rights vest in any employee, annuitant, or family member nor any

1 benefits be reduced or impaired as a result of the enactment of this
2 act. No current or future benefits under this act shall be revised in
3 any way because of this act.

4 *SEC. 41. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety*
6 *within the meaning of Article IV of the Constitution and shall go*
7 *into immediate effect. The facts constituting the necessity are:*

8 *In order to facilitate the orderly administration of public*
9 *retirement systems subject to this act at the earliest possible time,*
10 *it is necessary that this act take effect immediately.*

